

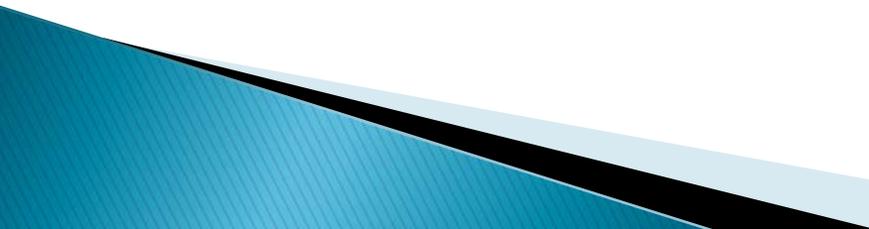
# Human Resources and Workplace Harassment



Tennessee Judicial Academy  
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*Human Resources Manager*

# During this session we will review:

- ▶ Title VI of the Civil Rights Act of 1964
  - ▶ Title IX of the Education Amendments Act of 1972
  - ▶ Supreme Court Policy 2.08 – Workplace Harassment
  - ▶ Family and Medical Leave Act (FMLA)
  - ▶ Americans with Disability Act (ADA) as it relates to employees only
  - ▶ General Information
- 

# Title VI of the Civil Rights Act of 1964

- ▶ Any program or activity receiving Federal financial assistance
  - ▶ Specific to race, color, or national origin
- 

# Title IX of the Education Amendments Act of 1972,

- ▶ Prohibits discrimination on the basis of sex
- ▶ Any **education** program or activity receiving Federal financial assistance

# Compliance and Monitoring

- ▶ Participate in Annual TITLE VI and Title IX Training
  - ▶ Limited English Proficiency (Title VI only)
  - ▶ Annual Compliance Reviews/Reporting
  - ▶ Complaint Procedures
  - ▶ Public Notice and Outreach
- 

# Workplace Harassment

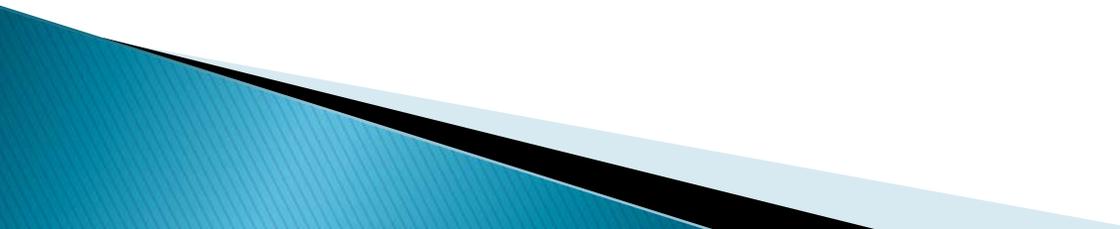
- ▶ **Supreme Court Policy 2.08**
- ▶ **Purpose:** To ensure that all employees are allowed to work in an environment free from all forms of unlawful workplace harassment.

# Protected Categories:

- ▶ Race
- ▶ Color
- ▶ National Origin
- ▶ Age 40 and over
- ▶ Sex
- ▶ Pregnancy
- ▶ Religion
- ▶ Creed
- ▶ Disability
- ▶ Veteran's Preference
- ▶ Or any other category protected by state and/or federal civil rights laws



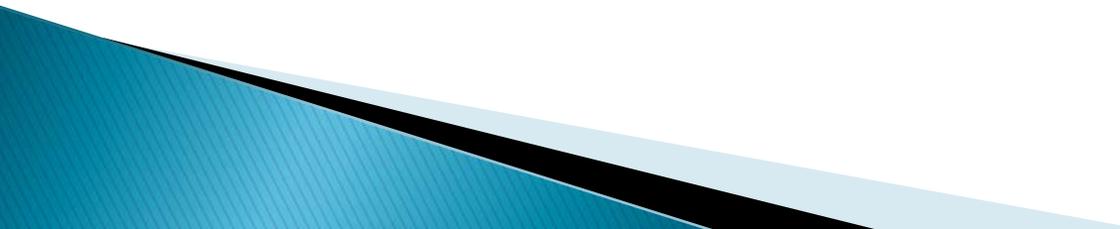
# Unwelcome Workplace Harassment

- ▶ Creates an intimidating, hostile or offensive environment
  - ▶ Unreasonably interferes with an employee's work performance
  - ▶ Affects an employee's employment opportunities or compensation
- 

# Application

- ▶ Intent vs. Impact
  - ▶ Managerial Harassment
  - ▶ Retaliation
  - ▶ Reporting Harassment and/or Retaliation
  - ▶ Confidentiality
- 

# Healthy Workplace Act

- ▶ Model policy for employers to prevent abusive conduct in the workplace
  - ▶ Harassment, intimidation or bullying
  - ▶ substantially interferes with a person's work performance or creates an intimidating, hostile or offensive work environment
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# It Boils Down to a Matter of ...

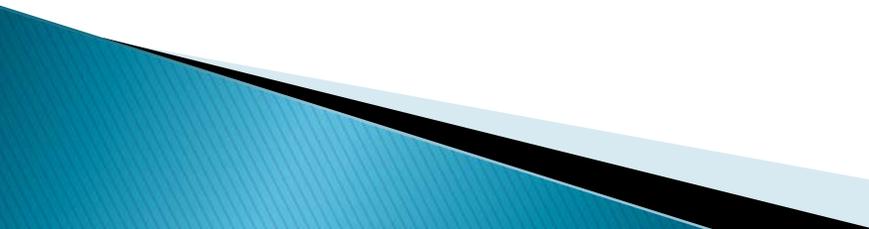
## *RESPECT*

(As defined by Webster)

A high regard or an appreciation of worth; esteem, due regard or consideration; to treat with consideration.



# The Family and Medical Leave Act of 1993 (FMLA)

- ▶ Un-paid, job protected leave
  - ▶ Employee or immediate family member
  - ▶ Notify Human Resources anytime an employee takes ten or more days medical or family leave to discuss and determine next steps
- 

# Americans With Disability Act (ADA)

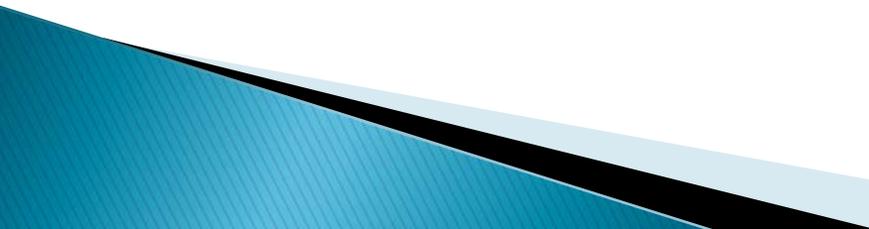
- ▶ Equal opportunity for employees and applicants
  - ▶ Reasonable accommodations
  - ▶ May not impose an “undue hardship on employer
  - ▶ Contact Human Resources for assistance
- 

# Nepotism Statute

- ▶ **8-31-103. Direct supervision of relatives prohibited.**

No state employees who are relatives shall be placed within the same direct line of supervision whereby one (1) relative is responsible for supervising the job performance or work activities of another relative; provided, that to the extent possible, the provisions of this chapter shall not be construed to prohibit two (2) or more such relatives from working within the same state governmental entity.

# Trial Court Secretary/Assistant

- ▶ Serves at the pleasure of the Judge
  - ▶ Is an “at will” employee
  - ▶ Takes leave at the discretion of the Judge
  - ▶ Should advise Human Resources if extended leave is needed (ten days or over)
  - ▶ Eligible for all other state benefits
- 

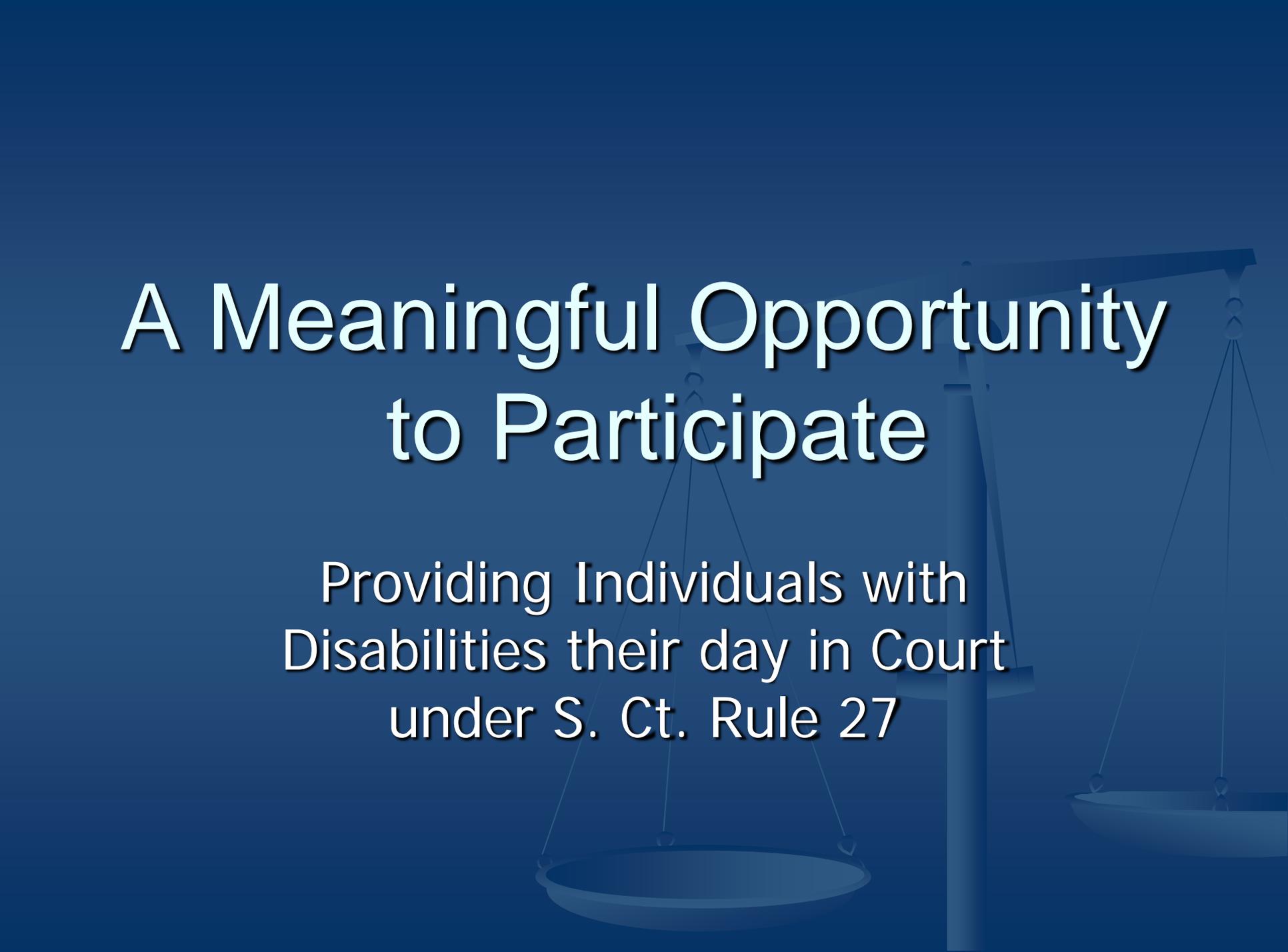
For assistance with any  
personnel/staff related issue contact:

*Cindy Saladin*

*AOC Human Resources Manager*

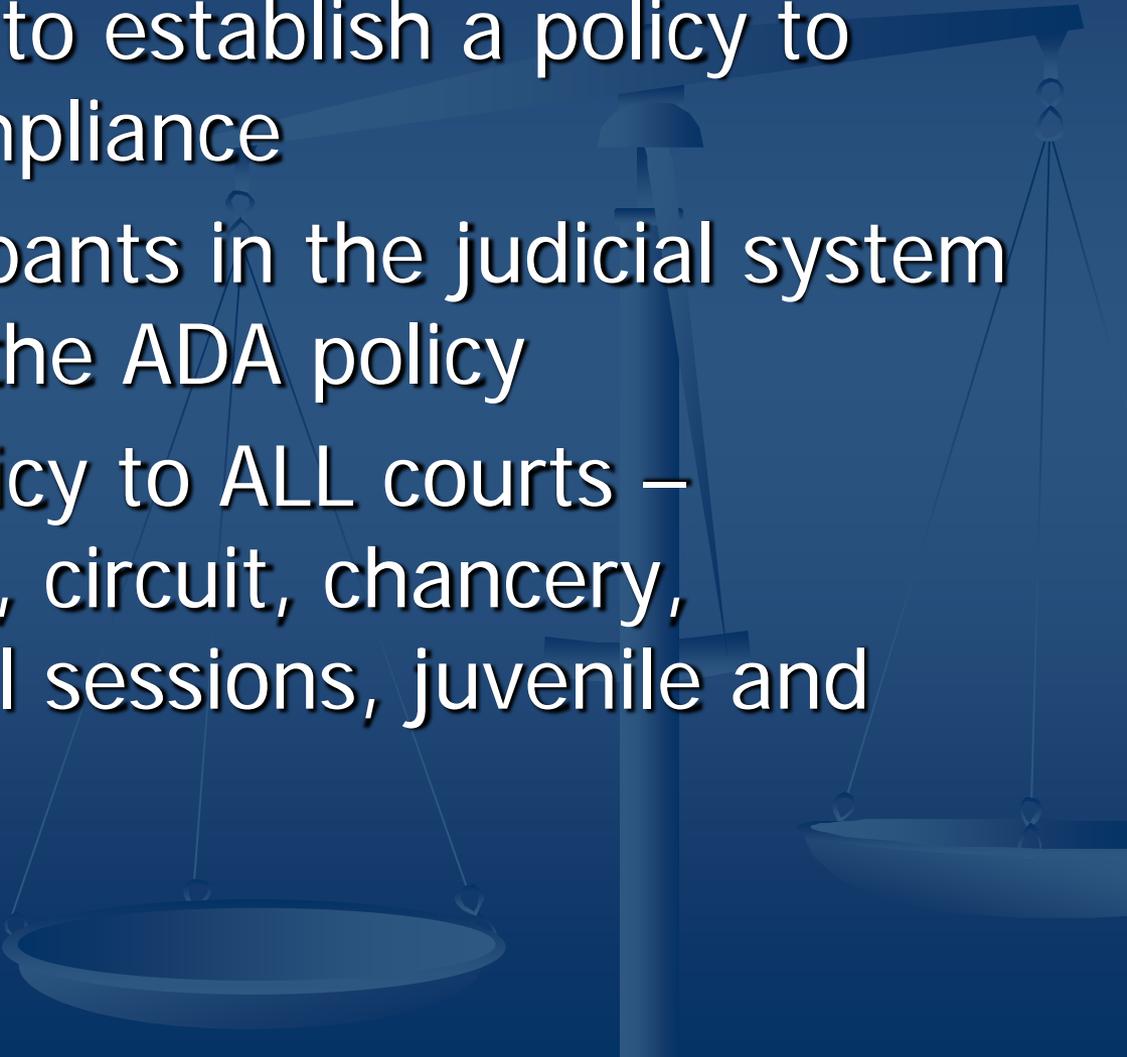
*“If you fulfill the wishes of your employees, the employees will  
fulfill your visions.”*

# A Meaningful Opportunity to Participate

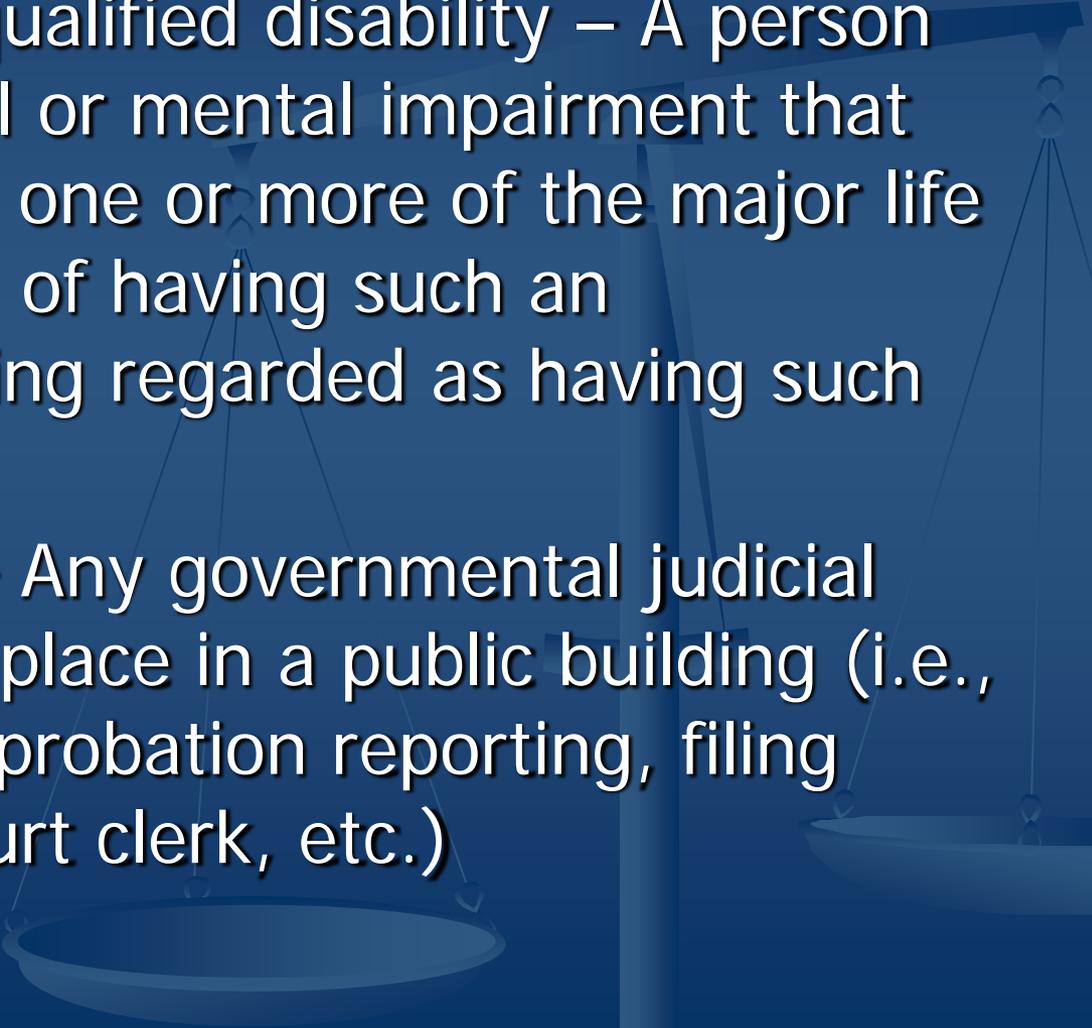
A faint, stylized image of a pair of scales of justice is visible in the background, centered behind the text. The scales are rendered in a light blue color, matching the overall theme of the slide.

Providing Individuals with  
Disabilities their day in Court  
under S. Ct. Rule 27

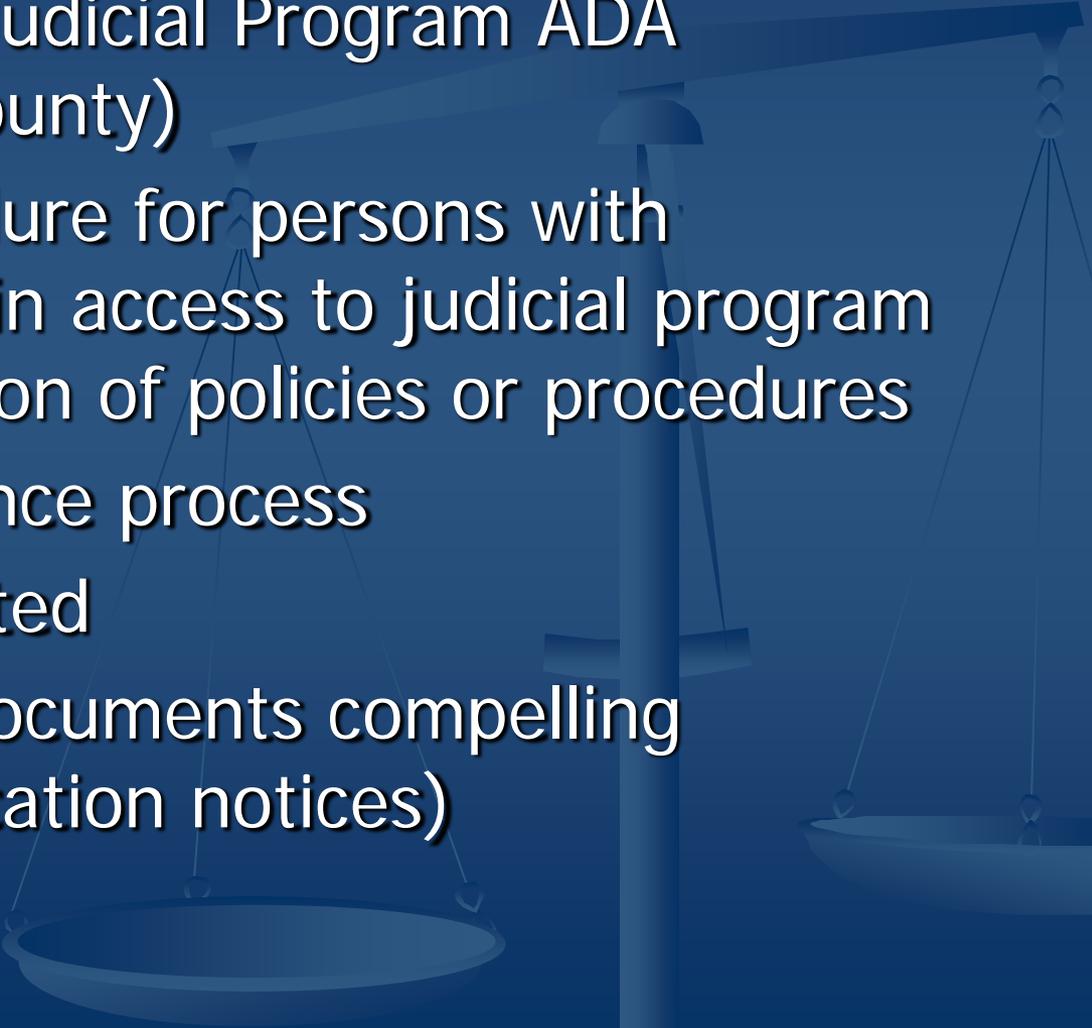
# Supreme Court Rule 27

- Authorizes AOC to establish a policy to ensure ADA compliance
  - Requires participants in the judicial system to comply with the ADA policy
  - Applies ADA policy to ALL courts – appellate courts, circuit, chancery, criminal, general sessions, juvenile and municipal
- 

# Important Policy Definitions

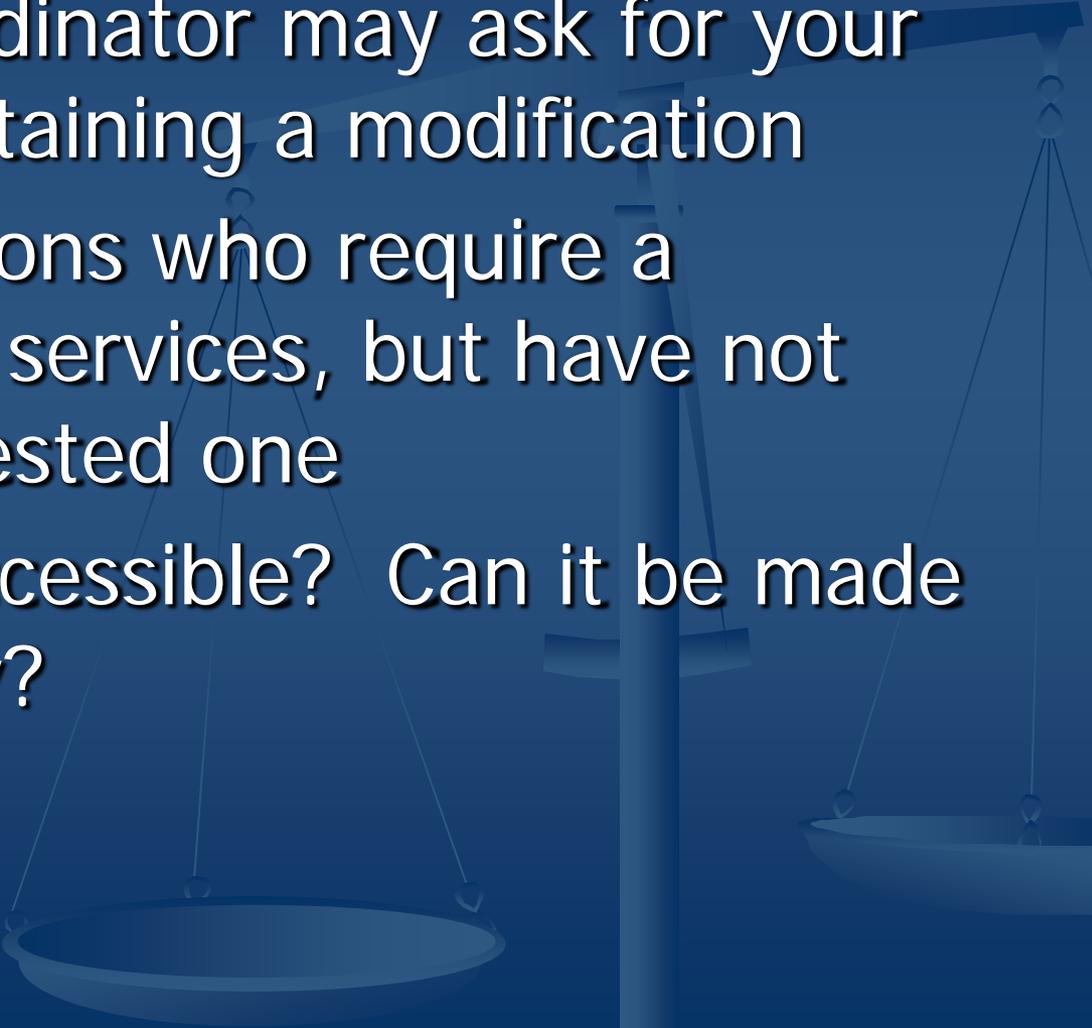
- Individual with a qualified disability – A person who has a physical or mental impairment that substantially limits one or more of the major life activities; a record of having such an impairment; or being regarded as having such an impairment
  - Judicial program – Any governmental judicial activity that takes place in a public building (i.e., court proceeding, probation reporting, filing document with court clerk, etc.)
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# Policy Requirements

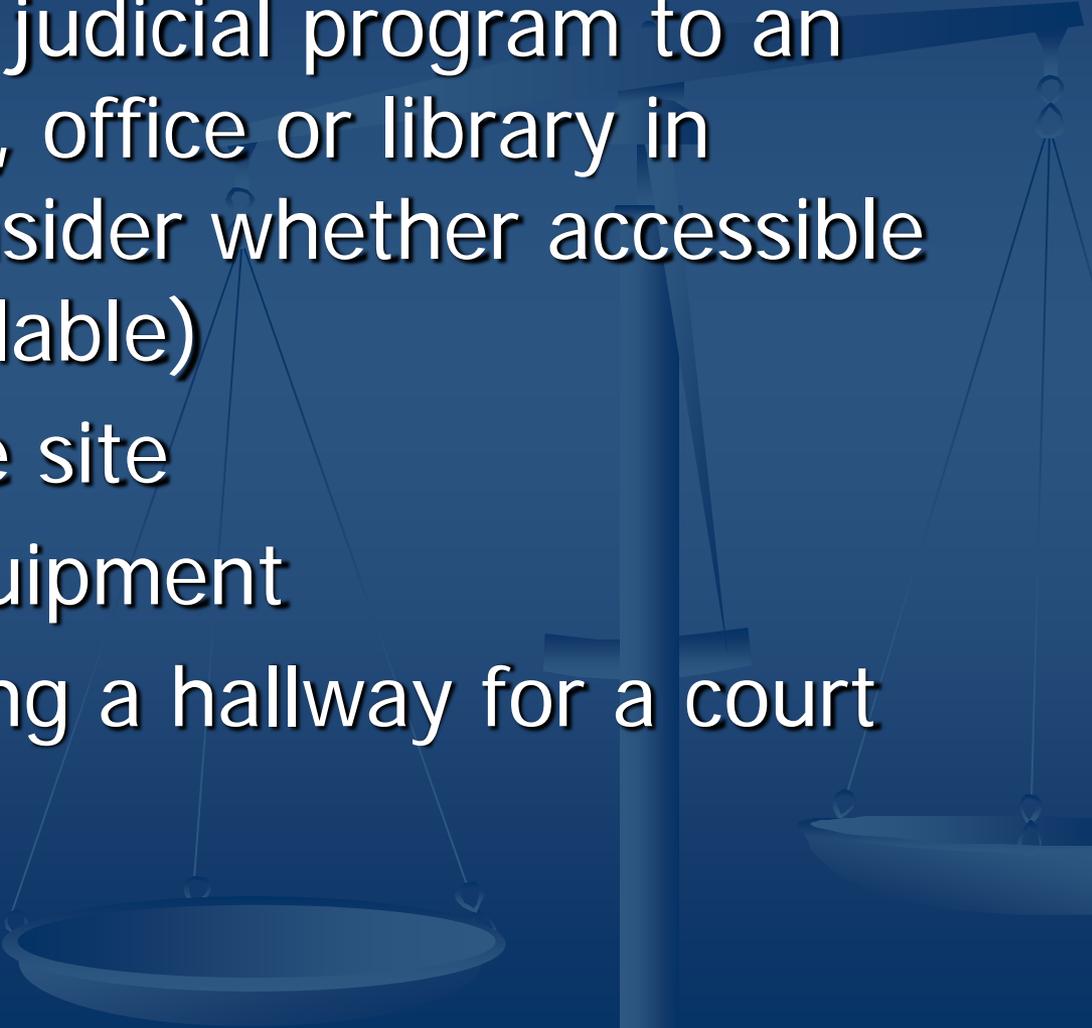


- Establishes Local Judicial Program ADA Coordinator (by county)
- Establishes Procedure for persons with disabilities to obtain access to judicial program through modification of policies or procedures
- Establishes grievance process
- Public Notices posted
- Public Notice on documents compelling attendance (Publication notices)

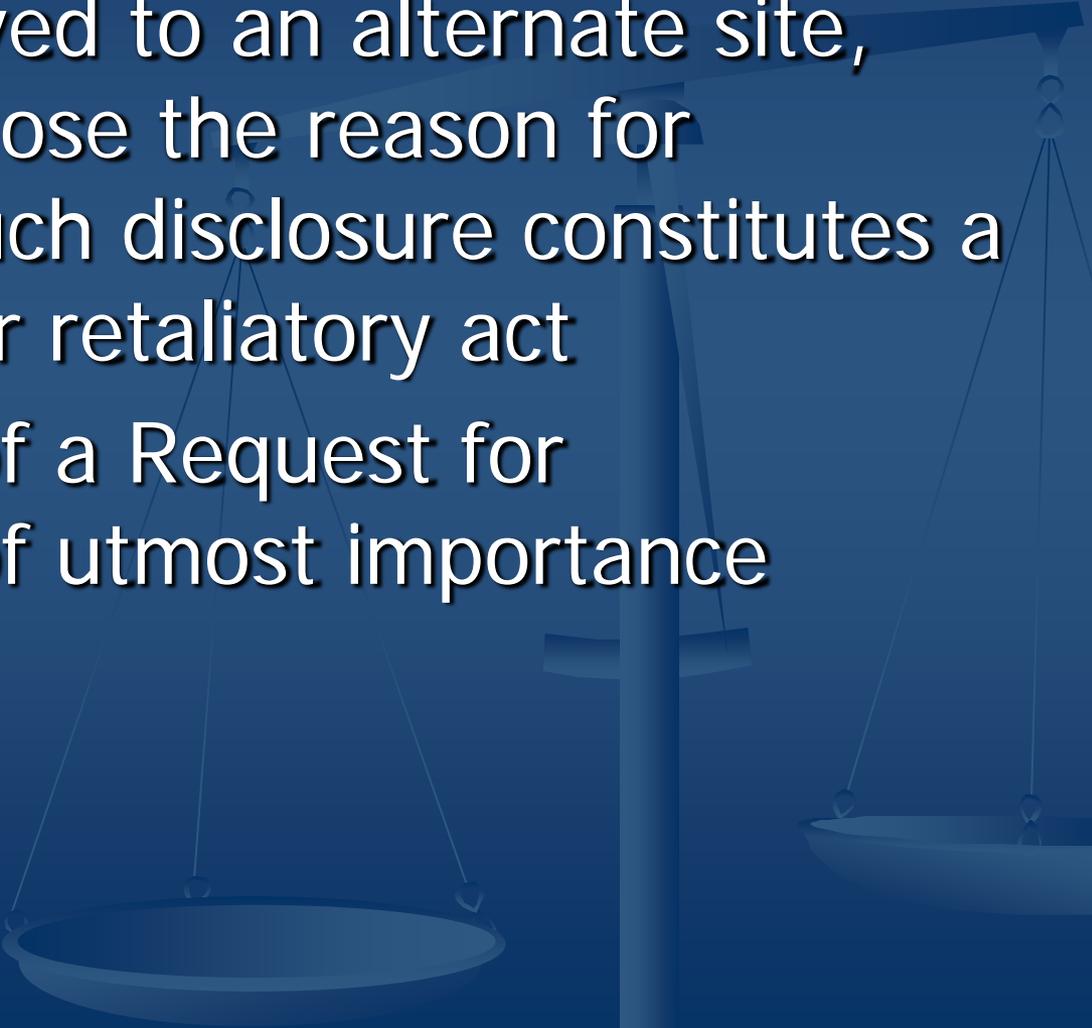
# What do I need to know?

- Your Local Coordinator may ask for your assistance in obtaining a modification
  - Addressing persons who require a modification for services, but have not previously requested one
  - Is your office accessible? Can it be made accessible easily?
- 

# FAQs – Inaccessible Courtrooms or Office Space

- Moving court or judicial program to an accessible room, office or library in courthouse (consider whether accessible restroom is available)
  - Use an alternate site
  - Audio/Visual equipment
  - Try to avoid using a hallway for a court proceeding
- 

# FAQs – Confidentiality Concerns

- If you have moved to an alternate site, you cannot disclose the reason for relocation, as such disclosure constitutes a discriminatory or retaliatory act
  - Confidentiality of a Request for Modification is of utmost importance
- 

# Effective Communication

- Deaf or Hard of Hearing
  - Interpreters covered by Tenn. Code Ann. § 24-1-211
  - Court SHALL appoint interpreter for ALL court proceedings (and custodial interrogations)
  - COUNTY SHALL pay for interpreter
  - Real Time Transcription is interpretation
  - DOES NOT cover interpreters for persons with limited English proficiency

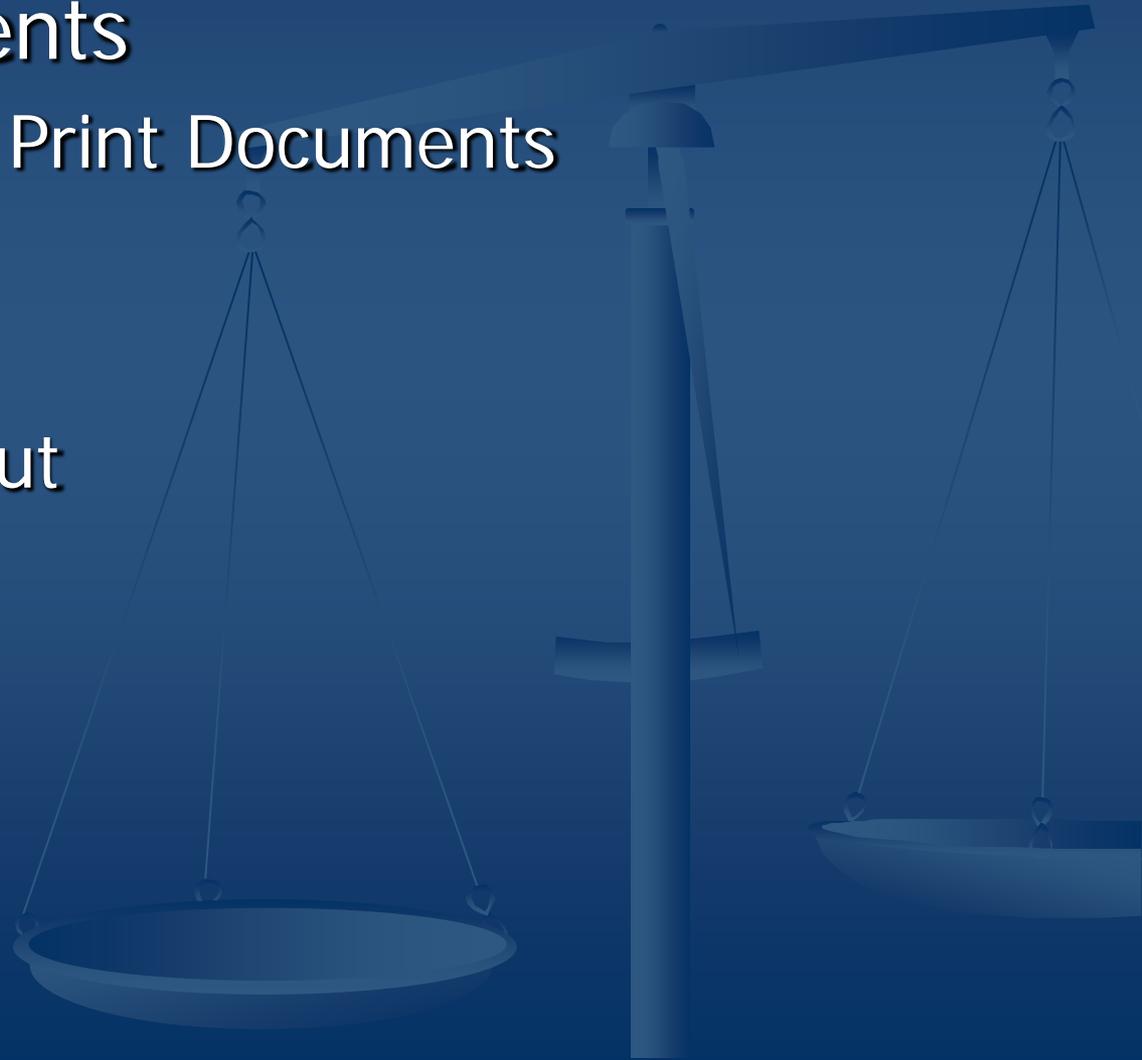
# Effective Communication

- Other useful aids for hearing disabilities
  - Assistive Listening Devices (ASLs)
  - Computer-aided transcription
  - Written materials
  - Videotext displays

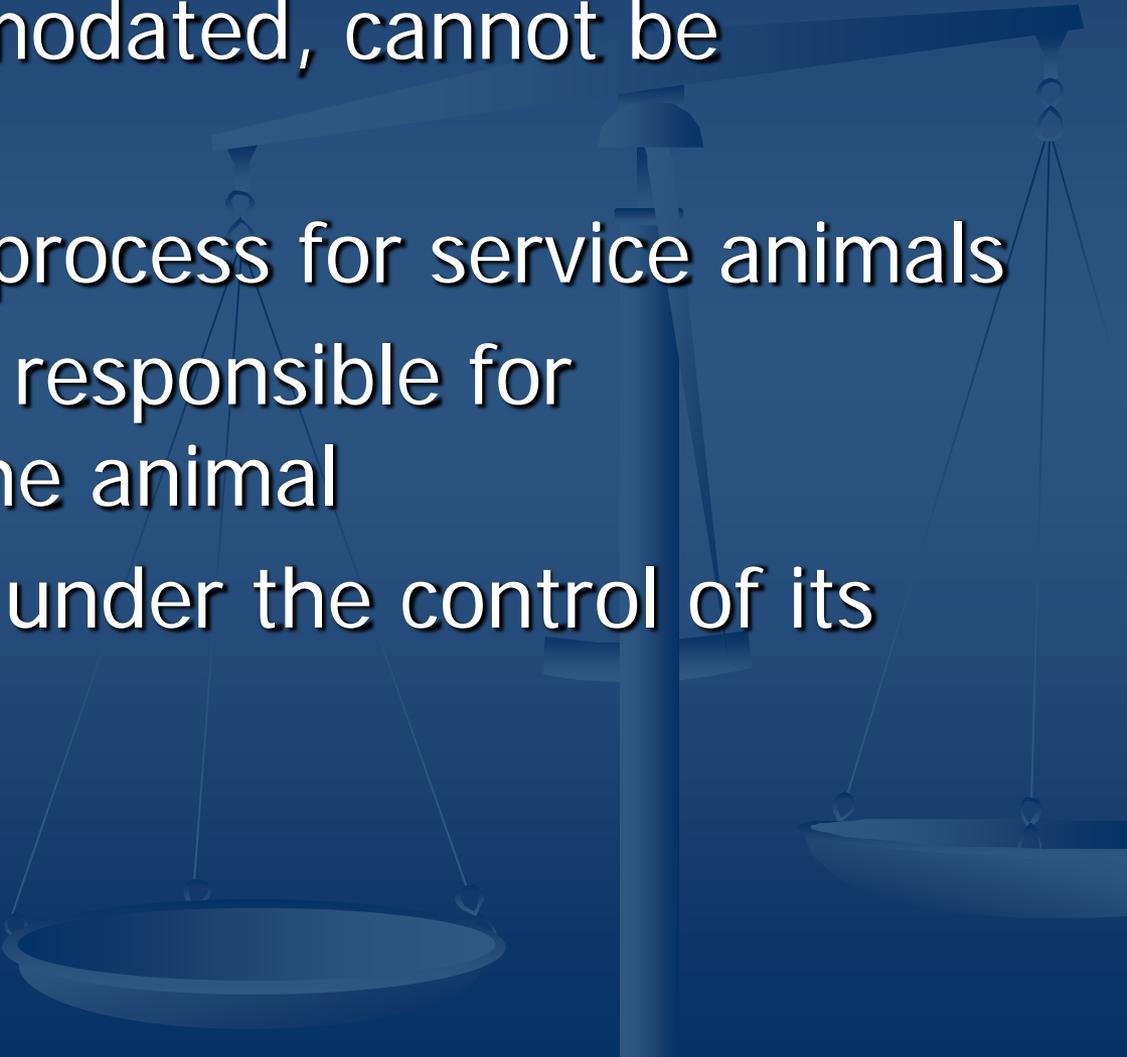


# Effective Communication

- Vision Impairments
  - Braille or Large Print Documents
  - Readers
  - Taped texts
  - Courtroom layout



# Service Animals

- Must be accommodated, cannot be segregated
  - No certification process for service animals
  - The court is not responsible for supervision of the animal
  - Animal must be under the control of its master
- 

Questions?



Communication is the  
Key!



## Frequently Asked Questions about the ADA and Tennessee Courts

The Tennessee Judicial branch of government is committed to providing equal access to court and judicial programs consistent with the Americans with Disabilities Act (ADA), the ADA Amendments Act of 2008 (ADAAA) and other federal and state laws. If you have a disability that restricts your ability to meaningfully participate in court proceedings, you may ask the court to provide you with reasonable and appropriate modifications.

### **Who qualifies for modifications under the ADA?**

A person with a disability may receive a modification if the person has a physical or mental impairment that substantially limits one or more major bodily functions or major life activities, has a record of such impairment, or is regarded as having an impairment.

### **What kinds of modifications are available?**

Modifications may include:

- Making reasonable modification to policies, practices and procedures (such as alternative time schedules, telephone conferences)
- Alteration of existing facilities (wheelchair accessibility)
- Relocation of a program or service to an accessible facility
- Providing auxiliary aids or services (assistive listening devices, real time captioning, qualified interpreters, large print or Braille documents)

### **What kinds of modifications are not provided?**

Examples of aids or services that courts cannot provide are:

- Transportation to and from the courthouse
- Legal counsel or advice
- An official transcript of a court proceeding
- Personal devices such as wheelchairs, hearing aids or prescription eyeglasses
- Personal services such as medical care or attendant care
- Readers for personal use or study

In addition, the courts cannot administratively suspend or change court procedural rules, such as change of venue, statute of limitations or filing deadlines. The court cannot modify terms of an agreement as an ADA modification. The formal motion process should be followed to make a request to apply changes to such matters as these. The court cannot permit modifications that impair the neutrality or functioning of the court, such as continuing matters indefinitely or appointing an attorney or another person to explain legal matters or do legal research.

### **How do I get a modification?**

You must notify the court that you need a disability modification and suggest the modification that best suits your situation. If you do not request a modification, the court is not required to provide one. A request may be made at any time. However, at least five days' notice is preferred and may be required for certain modifications.

Requests should be made in writing by completing a Request for Modification form. You may contact the Judicial Branch ADA Coordinator for the court in which you are to appear to make

an oral request. In most instances, you will not be required to provide additional medical information, but the court may request documents (such as a note from your physician) in order to make a decision.

**May the court deny my request for modification?**

The court may deny your request if it is for personal services or devices (such as a hearing aid), if the modification will fundamentally alter the nature of the service or program (such as providing an attorney for a disabled party when one would not be provided for another party), or if the request would be inappropriate in the course of the litigation.

**If the court suggests a different modification, do I have to accept the alternative suggested?**

The court is required to provide a modification that will effectively allow full participation in the court proceedings. Determining an appropriate modification requires an interactive process between you and the court. Your input and suggestions are welcome and important during the process of finding an effective modification, but modification selected may not be your first choice. For example, if a juror is blind and requests written material introduced at trial to be transcribed in Braille, the court may consider alternatives such as providing a reader or a recorded transcript of the written material.

**What types of auxiliary aids and services may be available to the deaf and hard of hearing?**

Persons who are deaf or hard of hearing may require modification in order to allow for effective communication with the courts. Many types of auxiliary aids are available which may assist in providing effective communication. Examples are: qualified sign language interpreters, note takers, assistive listening devices, real time transcription and exchange of written notes. The auxiliary aid chosen should depend upon the specific nature of the individual's disability and the preferred mode of communication.

**Who pays for the auxiliary aids and services?**

Auxiliary aids and services necessary for effective communication or to enable participation in services, other than devices of a personal nature, are to be provided at no cost to the person with a disability. The county government is responsible for paying the cost of a sign language interpreter for a party or witness that requires such assistance under Tennessee Code Annotated § 24-1-211.

**May I bring a service animal to court?**

A person with a disability may be accompanied by a service dog in all areas of a building where court users are normally allowed to go. Under the ADA, a dog must be individually trained to perform tasks that relate directly to the disability in order to qualify as a service dog. The provision of emotional support or comfort is not covered by this definition. With very limited exceptions, only dogs qualify as service animals.