

Suggestions for Working with Jurors who have a Disability:

- A person with a disability will know the extent of their own capabilities and limitations.
- Never make assumptions about what accommodations or assistance a juror with a disability may need. Always ask what the person requires before helping out.
- Treat all jurors with respect, including those who have a disability. Avoid making judgments of capability based on stereotypes. Acquaint yourself with the literature describing disabilities and disabling conditions.

Reasonable Accommodations:

The Unified Court System is committed to fostering compliance with the ADA, and providing services that assure accessibility for all court users. You should be aware that reasonable accommodations may include any of the following: assistive listening devices; a Sign Language interpreter, or a court reporter with Communication Access Realtime Translation (CART).

In addition, the court can allow for breaks for a juror whose medical needs require that he or she stand, or use the restroom on a frequent basis. The court can provide large print transcripts, an Elmo device for magnification, or have documents read to a juror with a sight impairment. Courtrooms and jury delib-

eration rooms are available that accommodate mobility devices. Service animals are accommodated pursuant to law.

*Additional information is provided at:
www.nycourts.gov/accessibility/index.shtml.*

Questions, contact the local Commissioner of Jurors.

Working with Jurors with Disabilities

A Guide for Attorneys who are working with jurors or potential jurors who have disabilities.



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This publication is issued as a public service of the New York State Bar Association's Committee on Issues Affecting People with Disabilities.



Who is a Person with a Disability?

According to Federal Law, commonly known as the ADA (as amended by the ADA Amendments Act), a person with a disability is one who has a physical or mental impairment which substantially limits a major life activity (42 U.S.C. § 12102).

This law also covers individuals with a history or a record of impairment.

Can a Person with a Disability serve as a Juror?

Since 1996, there have been no automatic exemptions from serving as a juror. So long as an individual meets the other qualifications for serving, including being a U.S. citizen; a resident of the county; age 18, or over; having no felony convictions; and being able to understand and communicate in English (a juror who is deaf still can qualify, *see Guzman, below*), that person is eligible to serve. Thus, an individual with a disability is neither prohibited (by law) from serving as a juror, nor automatically exempted from serving.

Each Case Is Different

While an individual with a disability is not eligible for an automatic exemption, each case being heard by the court is different. A juror with special needs may be totally appropriate to serve in one type of matter, but might not be able to fulfill the functions of a juror in another case. Accordingly, it is within the court's discretion to

determine whether an individual is capable of serving for a particular matter.

In *People v. Guzman*, 76 N.Y.2d 1 (1990), the Court of Appeals held that an individual with a hearing-impairment, by reason of that impairment, could not be disqualified from service as a juror. The court made clear that, under Judiciary Law section 510, the court will look at the individual, rather than provide a blanket exemption, to determine whether that particular person can perform the duties "in a reasonable manner."

Thus, the courts have upheld juror service for a juror with a sight impairment (including providing a large print transcript and having documents read into evidence: *See, People v. Caldwell*, 159 Misc.2d 190 (NYC Crim. Ct. NY Co., 1993); a juror with chronic (but not everyday) headaches that required medication (*People v. Busreth*, 35 A.D.3d 965 (Third Dept, 2006), *lv. to app. den.*, 8 N.Y.3d 920 (2007)); and a juror who required frequent breaks due to an arthritic back (*People v. Santiago*, 277 A.D.2d 258 (Second Dept., 2000); *lv. to app. den.*, 98 N.Y. 2d 772 (2002)).

The courts have, however, upheld a peremptory challenge against a juror with a hearing impairment, where it would have affected the juror's ability to assess the inflections of the defendant's voice on the audiotapes being submitted into evidence (*People v. Falkenstein*, 288 A.D.2d 922 (Fourth Dept., 2001), *lv. to app. den.*,

97 N.Y.2d 704 (2002)); and granted a challenge for cause against a blind juror where physical evidence was a key component of the case (*Jones v. NYC Transit Authority*, 126 Misc.2d.585 (Civil Court, NY Co., 1984)).

Did You Know?

That by the time you get to question a prospective juror at voir dire, that juror already has had opportunities to discuss special needs and obtain a reasonable accommodation?

- **Summons:** When a potential juror is summoned to serve, the summons contains a notice asking if the individual has special needs and provides a phone number to call to ask for assistance (each location has a TTY number as well).
- **Orientation:** On the day that a summoned juror arrives for court, the juror participates in an orientation session; generally, at that time, jurors in each group are asked to speak to the clerk, if they have a disability for which a special accommodation is required. Typically, there are signs around the courthouse, reflecting the court system's compliance with the ADA and providing information to those who need assistance.