

*Accessible Courts:
Toward Universal
Design*



Accessible Courts: Toward Universal Design

Diane Robinson

Principal Court Research Associate, National Center for State Courts

Zachary Zarnow

Principal Court Management Consultant, National Center for State Courts

Universal design is a term used to describe the design of environments, both buildings and services, that are accessible to every person, regardless of age or disability. Accommodating the needs of self-represented litigants and individuals subject to guardianship makes courts more functional and accessible for all court users.

Accessible Courts: Toward Universal Design

The last three years have created a wave of change and adaptation in state courts at a pace and breadth never before seen. While rapid change has been challenging, it has also unlocked new opportunities for courts to increase access to justice and embrace user-centered innovations and accessibility advancements. This article will discuss how courts can increase access to justice by embracing universal design and use examples from the experiences of self-represented litigants and individuals subject to guardianship to explore in more concrete terms how using universal design can have tangible benefits across the court ecosystem.

Access to justice is achieved when a person facing a legal issue has timely and affordable access to the level of legal help they need to get a fair outcome on the merits of their legal issue and can walk away believing they got a fair shake in the process.¹ Access, therefore, is not about ensuring that everyone has a lawyer. It is rather about making sure that people get the kind of help they need, when they need it, in a way that is understandable and timely, and that the system treats them with respect and dignity and leaves them feeling like they meaningfully participated in the process. This is no small undertaking, but as described in more detail below, this is core to the function of courts and cannot be conceptualized as an “extra” element of doing the daily business of the legal system.

Universal design is a term used to describe the design of environments, including buildings and services, that are accessible to every person, regardless of age or disability. It was coined by architect Ronald Mace, who

noted that “changing demographics, statutes, and attitudes are fueling the demand for more sophisticated products, housing, and business environments that are accessible for people of all ages, sizes, and abilities” (Mace, Hardie, and Place, 1996). Universal design has seven principles: equitable use, flexibility in use, simple and intuitive use, perceptible information, tolerance for error, low physical effort, and size and space for approach and use (National Disability Authority, 2020).

Considering universal design in courts is not a new idea. In 1991 the National Conference on Court-Related Needs of the Elderly and Persons with Disabilities stated that:

The justice system should commit itself to the removal of attitudinal barriers and serve as a model of accessibility based on the principle of universal design, which requires a barrier-free, technologically enhanced environment in which what is needed by one is available to all (Dooley, Karp, and Wood, 1992).

Principle 1: Equitable Use

Equitable use means that the courts are accessible to individuals with varying abilities. In guardianship cases, individuals subject to guardianship are at risk of losing many or all civil rights, including potentially the ability to manage their own finances, sign

¹ As defined by the Chicago Bar Foundation.

contracts, marry, vote, or decide where to live. Despite this, the persons at the center of these cases are frequently not present or not fully involved in court hearings. There are some situations where involvement cannot be meaningful, as when the person is in a state of coma. However, when persons can participate with or without accommodations, they must be allowed to do so. Difficulty communicating must not be mistaken for a lack of interest or an inability to process information, make decisions, and have opinions.

Principle 2: Flexibility in Use

Courts that demonstrate flexibility in use accommodate a wide range of abilities. Providing options for meaningful participation in remote or hybrid hearings has also proven to be very helpful in allowing participation by individuals in institutional settings such as hospitals, skilled nursing facilities, and group homes, as well as family members who live in other communities, states, or countries. The same is true of offering remote services and assistance, like [virtual clerks' counters](#) (*Tiny Chats* 86). Caregivers who can access a clerk virtually can gain assistance without having to leave the person they are caring for, or arranging sometimes costly alternative care while they travel to the courthouse. They also open up the possibility of adaptive technologies in the context of a remote hearing. Remote and hybrid hearings, if done well, can increase access by allowing people to handle court business from anywhere, instead of having to take time off work, arrange childcare, and pay to travel to or park at the court (NCSC Access to Justice Team, 2022).

Considering the needs of litigants when scheduling hearings also helps ensure full participation. For an individual who needs considerable assistance with activities of daily living, such as bathing, dressing, eating, toileting, and mobility, a very early court hearing may be much more difficult than one scheduled later in the day. Getting ready often takes longer, and transportation options are fewer. On the other hand, older individuals may experience reduced cognition later in the day, a phenomenon known as sundowning, or late-day confusion. For these individuals, hearings scheduled earlier in the day can help them to fully participate. Allowing litigants some input into the time of their hearing helps those individuals with disabilities and is also a much-appreciated courtesy to others. Courts can achieve this by allowing litigants to [select hearing times](#) (*Tiny Chat* 74) via a [scheduling tool](#) (<https://www.onlinejudge.us/>) or by utilizing block scheduling, where the “cattle call” is eliminated and litigants are given a set time frame during which their hearing will take place either remotely or in person.

Time-certain hearings are very helpful to individuals who experience challenges in attending court and make court events more user centered for all litigants. Requiring a person with a disability, particularly one who has difficulty accessing toilet facilities, to wait for hours for their case to be called may make participation impossible. Similarly, individuals struggling to keep children entertained or paying for expensive childcare are ill served by court sessions that do not provide time-certain hearings. Block scheduling can also reduce the number of individuals (and resulting noise and potential security issues) in the courthouse. This makes the experience

less stressful for individuals with difficulty maintaining concentration, for those with a serious mental health condition, for those who have experienced trauma, and, quite frankly, for anyone. It is much easier for someone to take time off from work, schedule childcare, and manage travel when there is a set start and end time to their court engagement. It also goes a long way toward treating people with respect and valuing their time, which in turn increases trust and confidence in the court. Finally, it also helps courts. They can better manage their staffing levels and caseloads and can combine block scheduling with insights from case management data to manage workflows more effectively. Block scheduling and adherence to this principal of universal design helps all.

Principle 3: Simple and Intuitive Use

Consider the various touchpoints someone has with the legal system as a self-represented litigant (SRL). Self-represented litigants are not anomalous users of the court system. They are, in fact, the main users of the court system, particularly in high-volume civil cases like family, housing, and [consumer debt](#) (Michigan Justice for All Commission, n.d.). If courts were businesses, SRLs would be their primary customer. Their [experience](#) (*Tiny Chat* 53), and the opportunity that courts have to increase access to justice for them, is therefore of great importance to the courts and all of their users. Innovations that improve access for

SRLs by emphasizing simple and intuitive use improve the whole system. SRLs can lose trust and confidence in the system and [procedural fairness suffers](#) when they struggle to understand the legalese and complex language on a form; find procedural requirements like effectuating service of process or submitting documentation to be challenging; or attend a hearing that is moving at lightning speed where everyone but them seems to know what will happen next (*Tiny Chat* 19).

Courts can embrace plain language in all their forms and communications.² Making it easier for an SRL to understand a process also makes it easier for others and does not diminish the seriousness of court business. Doing this by also using interactive online tools that provide procedural and legal information likewise raises all boats.³

Principle 4: Perceptible Information

Some individuals participating in court hearings, particularly those subject to guardianship, require assistive or adaptive communication technologies. Before a court proceeding, the court should confirm that any needed communication technologies are available and functional. These may include assistive listening devices (ALDs), which amplify sound, or augmentative and alternative communication (AAC) devices. ALDs include hearing loop or induction loop systems, digital

2 NCSC provides an online “Interactive Plain Language Glossary” (<https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/plain-language/glossary>). NCSC also offers periodic online “Forms Camps” (<https://perma.cc/SS2F-YQVY>).

3 See, for example, this website of the 13th Judicial District, Wyandotte County, Kansas, at <https://perma.cc/T2DS-NGQZ>.

modification (DM) systems, infrared systems, and personal amplifiers (NIDCD Information Clearinghouse, 2019). AAC devices allow individuals with communication disorders to express themselves through devices such as simple picture boards and touch screens. Software allows tablets or laptops to be speaking devices (NIDCD Information Clearinghouse, 2019). These same needs can also be addressed in a remote environment. For example, the ability to use dedicated audio channels for spoken interpretation, video for visual interpretation, and the ability to display a live transcript can make full participation possible. Individuals may bring their own equipment or may rely upon the court to provide it. Advanced preparation is essential to making sure that difficulty communicating is not mistaken for an inability to participate in the court event.

Other individuals may have low vision or may be color blind, as are about one in twelve men. Color blindness can also come with age-related macular degeneration, diabetes, and Alzheimer’s disease (National Eye Institute, 2019). Individuals with low vision may need to use screen readers or magnifiers. In a courthouse, ensuring sufficient light to read can help those with low vision and those with color blindness. All printed materials should use color-blind-friendly color palettes. These simple accommodations can help many, even those simply experiencing normal age-related difficulty in reading small print, especially in low light.

Individuals participating in a remote hearing may have access with their own equipment but may also need the court’s help to access any printed material. Courts should also be mindful of the same color palette and contrast considerations in their online communications and remote access platforms.

Principle 5: Tolerance for Error

Courts should minimize negative consequences of any accidental or unintended action. Checking for understanding in court events is essential, whether the individual may have reduced capacity or not. Court hearings are often exercises in information asymmetry, where some individuals, such as the judicial officer, court staff, and attorneys, possess a great deal of information about what is happening, while a self-represented litigant or person with limited or diminished capacity possesses little. This is exacerbated in a remote hearing if most individuals have a video link and one participant has only a voice connection. In these situations, the person running the hearing should check to be sure that the audio-only person is still present and understands what is happening in the hearing. The judge or hearing officer should also build in pauses for audio-only participants and solicit their feedback. Indeed, before a hearing starts, there should be an orientation that ensures all parties understand who is present, how they are appearing (in person, via phone, via video), how to use essential elements of the equipment (mute, share screen), and how the entire proceeding will unfold (this party will speak first, then this party, I will make sure to pause and ask if you have questions). This is particularly helpful for individuals who are not already technology-fluent but is also reassuring to anyone experiencing a remote hearing for the first time. Finally, providing written “next steps” or “process steps” in plain language helps a court participant understand what happened in the hearing and what the person needs to do next.

Principle 6: Low Physical Effort and Principle 7: Size and Space for Approach and Use

Some individuals subject to guardianship may need physical accommodations to fully participate in hearings. Unfortunately, many courthouses lack ADA compliance, often because they are historic structures. Ensuring that there are ramps instead of (or in addition to) stairs, elevators to higher floors, accessible bathrooms, sufficient space in the courtrooms to maneuver with a wheelchair or walker, and handrails on all stairs and ramps helps these individuals and others access the courthouse. If the courthouse cannot be modified to be accessible, then flexible scheduling of courtrooms should be used to ensure that a ground-floor courtroom is available for any participant with mobility challenges. Alternatively, courts should have a plan to use space in accessible buildings if any participant cannot access the courthouse. Finally, courts should not forget the opportunities presented by remote hearings and services in such situations. Individuals may be able to virtually access the hearing remotely or from a first-floor conference room in the courthouse. Courts have become very proficient in conducting simple and complex hearings, offering clerks services, and even holding some types of trials via remote video and audio platforms. When a suitable physical space is not available to meet the needs of all participants, courts should consider virtual options.

If an individual involved in a court case needs support or accommodation, the court should track this information so that it can be prepared each time the individual is in court. In the [National Open Court Data Standards](#), there is a flag to indicate ADA needs the court should address with accommodations.⁴ Of course, the court will need to maintain specific information on what accommodations are required.

4 NODS can be accessed here: <https://www.ncsc.org/consulting-and-research/areas-of-expertise/data/national-open-court-data-standards-nods>.





Conclusion

Accessible courts are necessary for many individuals. Adhering to principals of universal design to offer accessibility increases access to justice and helps all court users. According to the CDC, 61 million adults in the United States live with a disability, including two in five adults over the age of 64 (Centers for Disease Control and Prevention, 2022). The population is also aging. The U.S. Census Bureau's American Community Survey estimated the 65-and-over population at 49.2 million in 2016, up from 35.0 million in 2000 (Roberts et al., 2018). This includes over 6 million individuals 85 years and older (Roberts et al., 2018).

For courts interested in universal design, not only of the physical space but also of court processes, there are many resources available. One is the [Protection and Advocacy](#) organization in the state (often called Disability Rights *state name*).⁵ Another is the [International Principles and Guidelines on Access to Justice for Persons with Disabilities](#), published by the United Nations' Human Rights Special Procedures (2020). It is a best practice to design court processes and procedures, as well as physical spaces, to be accessible to all. Doing so helps all court users and can increase access to justice and procedural fairness.

5 See Administration for Community Living at <https://perma.cc/Z4TJ-U79Q>.

References

- Centers for Disease Control and Prevention (2022). “Disability Impacts All of Us.” Disability and Health Infographics, October 28, 2022.
<https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html>
<https://perma.cc/Y3RX-C4L3>
- Dooley, J., N. Karp, and E. Wood (1992). *Opening the Courthouse Door: An ADA Access Guide for State Courts*. Washington, DC: American Bar Association.
- Mace, R. L, G. J. Hardie, and J. P. Place (1996). *Accessible Environments: Toward Universal Design*. Raleigh: The Center for Universal Design, North Carolina State University.
- Michigan Justice for All Commission (n.d.). “Advancing Justice of All: Report and Recommendations.” Debt Collection Work Group.
<https://perma.cc/RZ6G-9GDJ>
- National Center for State Courts (NCSC) Access to Justice Team (2022). *Remote Proceeding Toolkit*. Williamsburg, VA: National Center for State Courts.
<https://ncsc.contentdm.oclc.org/digital/collection/tech/id/1138/rec/1>
- National Disability Authority (2020). “The 7 Principles.” Centre for Excellence in Universal Design, Dublin, Ireland.
<https://universaldesign.ie/what-is-universal-design/the-7-principles/>
<https://perma.cc/D898-AJ8M>
- National Eye Institute (2019). “Color Blindness.” Bethesda, Maryland, July 3.
<https://www.nei.nih.gov/learn-about-eye-health/eye-conditions-and-diseases/color-blindness>
<https://perma.cc/YN25-LBQ8>
- NIDCD Information Clearinghouse (2019). “Assistive Devices for People with Hearing, Voice, Speech, or Language Disorders.” Bethesda, Maryland, November 12.
<https://www.nidcd.nih.gov/health/assistive-devices-people-hearing-voice-speech-or-language-disorders>
<https://perma.cc/GFY7-2AN6>
- Roberts, A. W., S. U. Ogunwole, L. Blakeslee, and M. A. Rabe (2018). “The Population 65 Years and Older in the United States: 2016.” *American Community Survey Reports*, U.S. Census Bureau, Washington, D.C.
<https://www.census.gov/content/dam/Census/library/publications/2018/acs/ACS-38.pdf>
<https://perma.cc/FMP9-N2L4>
- United Nations Human Rights Special Procedures (2020). *International Principles and Guidelines on Access to Justice for Persons with Disabilities*. Geneva, Switzerland: United Nations Human Rights Special Procedures.
<https://perma.cc/U8M7-DRRN>

Accessible Courts: Toward Universal Design

National Center for State Courts *Tiny Chats* Video Series

Tiny Chat 19. “Procedural Fairness.”

<https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/904/rec/1>

Tiny Chat 53. “Robyn’s Experience.”

<https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/912/rec/1>

Tiny Chat 74. “The Case of the Online Judge.”

<https://ncsc.contentdm.oclc.org/digital/collection/tech/id/1081/rec/1>

Tiny Chat 86. “Private Investigators—Michigan Virtual Clerk Counter.”

<https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/955/rec/1>