

Guide to Disability Inclusive Language in Legal Settings



WASHINGTON STATE SUPREME COURT DISABILITY JUSTICE TASK FORCE

July 2025

This document was developed by the Disability Justice Task Force, under the Support of the Washington State Supreme Court. Justice G. Helen Whitener served as the Supreme Court Co-Chair along with King County Superior Court Judge David Whedbee through the duration of the Task Force. This guide is designed to support more equitable and accessible practices for people with disabilities. It is intended for use by the court professionals, legal system partners, and community partners across Washington and may be freely referenced or modified with appropriate attribution. However, it may not be republished in full or under another name without express authorization from Washington State Supreme Court and the Disability Justice Task Force.

Message from the Co-Chairs

The Washington State Supreme Court Disability Justice Task Force is honored to present the *Guide to Disability Inclusive Language in Legal Setting*, a resource developed to support judges, attorneys, court staff, and all legal professionals in advancing access to justice.

Language is a powerful tool; it shapes perceptions, influences legal outcomes, and impacts how individuals experience the justice system. When used thoughtfully, language can uphold dignity and create more inclusive legal environments for individuals with disabilities and others who may face barriers in legal settings.

These guidelines reflect the values of respect, equity, and accessibility. They offer practical recommendations grounded in access to justice and disability justice principles and informed by the lived experiences of people directly impacted by the legal system. The goal is to align with our legal obligations and move toward a system where all individuals, regardless of ability, communication style, or background, can meaningfully participate.

We thank all those who contributed to this work, including disability advocates, legal professionals, and community members. Your insights and dedication were essential to this effort.

We encourage you to use this guide as a living resource that will continue evolving through collaboration, reflection, and dialogue. Together, we can create legal spaces that are not only accessible but also affirming and just.

Sincerely,

Justice G. Helen Whitener
Co–Chair Disability Justice Task Force
Washington State Supreme Court

Judge David Whedbee
Co-Chair Disability Justice Task Force
King County Superior Court

Washington State Supreme Court Disability Justice Task Force Members

Co-Chairs

Justice G. Helen Whitener, Co-Chair, Washington State Supreme Court

Judge David Whedbee, Co-Chair, King County Superior Court

DJTF Members

Judge Meng Li Che, Court of Appeals Division II

Commissioner Karl Triebel, Court of Appeals Division II

Judge Joseph Evans, Superior Court, Pierce County

Judge Diana Kiesel, Superior Court, Pierce County

Judge Gloria Ochoa-Bruck, Municipal Court, City of Spokane

Judge Aimee Maurer, District Court, Spokane County

Judge Camara Banfield, Superior Court, Clark County

Bryan Farrell, District Court Administrator, Clark County

Dave Lucas, Court Administrator, Cheney Municipal Court

Constance White, Country Clerk, Pierce County Superior Court

Dale Slack, Prosecuting Attorney, Columbia County

Ali Kingston, Attorney at Office of Civil Legal Aid, Spokane County

Michael MacKillop, Executive Director of the Department of Services for the Blind,
Seattle Washington

Carina Tong, Attorney, Disability Rights Washington, Seattle, Washington

Chloe Merino, Attorney, Disability Rights Washington, Seattle, Washington

Kimberly Meck, Chair of State Independent Living Council Representative, Seattle,
Washington

Marilyn Roberts, Executive Director, National Alliance on Mental Illness Representative,
Thurston/Mason County

Lacey Robins, Disability Inclusion Lived Expert, Seattle, Washington

Pamela Norr, Chief Executive Officer of The Arc of Spokane, Spokane, Washington

Shoshana Kehoe-Ehlers, Attorney, Office of Public Defense, Seattle, Washington

Ashley Callan, Superior Court Administrator, Spokane County

AOC Staff

Joslyn Nelson, Senior Court Program Analyst, Disability Justice Task Force

Table of Contents

Executive Summary	1
Introduction	4
I.The Importance of Language in Legal Settings	7
I.I Using Unclear or Outdated Language Can:.....	7
II.Why Plain Language Matters	8
II. I Best Practices for Using Plain Language	8
III.Clarifying the Distinction Between Having a Disability and Being Disabled in Legal Contexts	10
III. I Why This Matters in Legal Proceedings	11
IV.Moving Beyond the Medical Model: Adopting Rights-Based, Functional, and Disability Justice Approaches in Legal Settings.....	12
IV. I This Outdated Approach Has Contributed To:	12
IV.II Courtroom Best Practices: Implementing Inclusive Legal Approaches	15
IV.III Key Practices for Inclusive Legal Proceedings.....	15
V.Language for Supporting Youth with Disabilities in Court	17
V.I Legal Comprehension & Understanding	17
VI.Recognizing Different Types of Disabilities	21
VI.I Distinguishing Between Congenital and Acquired Disabilities.....	22
VI. II Recognizing Hidden Disabilities and Undisclosed Disabilities & Providing Accommodations	22
VI.III Considerations for Legal Professionals.....	23
VII. Person First vs. Identity First Language.....	24
VIII. Avoiding Stigmatizing and Casual Ableist Language	25
VIII. I Why High-Functioning and Low-Functioning Terms Should Be Avoided ..	25
IX. Proper Use of "Competency" in Legal and Medical Contexts	27
X. Witness Testimony, Jury Selection & Language Disparities	29
X. I Jury Selection Considerations.....	30
XI. Courtroom Accommodations & Procedural Adjustments	33
XI.I Types of Accommodations That Can Improve Accessibility:	33
Final Thoughts	35
Glossary of Terms.....	38
Appendix A:.....	43

Appendix B.....	45
Appendix C.....	46
Additional Resources for Legal Professionals	52

Executive Summary

This guide is intended to support judges, attorneys, court staff, clerks, administrators, Americans with Disability Act (ADA) coordinators, and other legal professionals in using respectful, inclusive, and accurate language when referring to individuals with disabilities in legal settings. The language we use plays a powerful role in shaping perceptions, guiding legal outcomes, and ensuring meaningful access to justice. When language reflects outdated assumptions, reinforces stereotypes, or overlooks diverse communication and access needs, it can unintentionally create barriers, particularly for people with disabilities and those from historically marginalized communities. This guide is designed to help reduce those barriers and promote more equitable and informed legal practices.

In addition to promoting more respectful practices, this guide also supports compliance with legal and ethical obligations. Under the Americans with Disabilities Act (ADA),¹ Section 504 of the Rehabilitation Act of 1973², and Washington State's General Rule (GR 33)³, courts and legal professionals must ensure nondiscriminatory access to services and communication for people with disabilities. These duties are further reinforced by the Washington Rules of Professional Conduct (RPC)⁴, which require competence and effective communication, and judicial canons⁵ that emphasize impartiality and equal access to justice. While Washington has adopted accessibility standards, there is currently no centralized guidance on inclusive and disability-affirming legal language. This guide helps fill that gap.

Key features of the guide include:

- A summary of legal and ethical obligations under the Americans with Disabilities Act (ADA), Section 504, Washington's General Rule (GR 33), Rules of Professional Conduct (RPC 1.1 and 1.4), and ABA Formal Opinion 500.

¹ Americans with Disabilities Act of 1990, 42 U.S.C. § 12101. (2018)

² U.S. Department of Health and Human Services, Office for Civil Rights. Your Rights Under Section 504 of the Rehabilitation Act. Revised June 2006. <https://www.hhs.gov/sites/default/files/ocr/civilrights/resources/factsheets/504.pdf>

³ Wash. Ct. Gen. R.33

⁴ Wash. R. Pro. Conduct 1.1 cmt. (2024)

⁵ *Model Code of Jud Conduct R. 2.2: (Am. Bar Ass'n 2020)*

- An overview of disability models (medical, rights-based, functional, and disability justice) and how they influence legal reasoning.
- Guidance on the importance of using plain language for accessibility and legal clarity.
- Strategies for identifying and addressing visible, hidden, and undisclosed disabilities in court settings.
- Practical guidance for avoiding overmedicalization in legal descriptions and communications.
- Examples and comparisons of person-first and identity-first language.
- Clear tables outlining respectful alternatives to outdated or stigmatizing terms.
- Best practices for supporting youth with disabilities in juvenile, family, and education-related court systems.
- Inclusive approaches to jury service, including access, accommodations, and WPIC 4.75 guidance on disability and credibility.
- Guidance on inclusive language practices across all courtroom roles, including attorneys, judges, court staff, and interpreters.
- Considerations for people with limited English proficiency and nontraditional communication styles.
- Attention to intersectional barriers faced by people with disabilities who are also impacted by race, poverty, trauma, or language access issues.
- Includes appendices with terminology definitions, ethical rule summaries, and external resources for legal professionals.

This guide encourages legal professionals to be mindful of implicit assumptions or judgments about how disability-related behaviors might be misinterpreted in legal proceedings. This includes recognizing how assumptions affect witness credibility, defendant competency, or juror suitability assessments.

While not all language practices in this guide are legally mandated, they reflect widely recognized standards for respectful, inclusive, and accessible legal communication.

Legal professionals are encouraged to apply them to help advance access to justice for all court participants.

Inclusive Language Guide for Legal Professions: Communicating Respectfully with People with Disabilities

Introduction

Language plays an important role in ensuring fairness, dignity, and accessibility in the legal system. The words used in courtrooms, legal documents, and judicial proceedings influence how individuals are understood, decisions are made, and justice is applied. Using respectful and accurate language supports equal access to justice for all individuals, including those with disabilities and others who may face barriers in legal settings.

Legal language has historically included outdated, overly broad, or exclusionary terms that reinforce stereotypes, create unnecessary barriers, and misrepresent individuals' experiences. Some terms, such as “insane,” “mentally defective,” or “wheelchair-bound,” remain embedded in statutes or formal legal proceedings.⁶ However, legal professionals often have the discretion to choose more accurate and respectful language in their communication. Additionally, how courts approach disability, whether through a medical model, rights-based model, functional model, or disability justice framework, impacts legal decisions related to competency, sentencing, jury selection, and witness credibility.

Legal professionals play an essential role in ensuring that language remains neutral, precise, and accessible so that individuals are treated fairly under the law. To do this well, they must also be aware of how unexamined assumptions can shape interpretation and decision-making. Bias, especially ableist bias, often shows up in communication expectations, behavioral norms, and credibility judgments. While often unintentional, these patterns can lead to exclusion, misinterpretation, or barriers to participation.

⁶ National Council on Disability. *Effective Communications for People with Disabilities: Before, During, and After Emergencies*. February 10, 2014. <https://www.ncd.gov/report/effective-communications-for-people-with-disabilities-before-during-and-after-emergencies/>

Recognizing bias is critical to choosing language that upholds dignity, promotes access, and enables full participation in legal processes.

This guide provides best practices for using clear, inclusive, and neutral language in legal settings. It also includes strategies for:

- Avoiding unintended assumptions that can affect legal outcomes.
- Ensuring fairness in jury selection and witness testimony by recognizing different communication styles.
- Providing accommodations that supports full participation for individuals with disabilities.
- Strengthening clarity in legal communication by using plain language where appropriate.
- Recognizing that not all disabilities are visible, disclosed, or formally diagnosed, and ensuring flexibility in legal communication and accommodations.
- Understanding how different disability models influence legal reasoning and decision-making.

By applying these guidelines, legal professionals can improve communication across all court roles, reduce access barriers, and foster greater participation for people with disabilities. These practices contribute to a more inclusive justice system that upholds access to justice, accommodates individual needs, and ensures people with disabilities can engage fully and meaningfully in legal processes.

How This Guide is Structured

Historically, legal language has included terms that reinforce outdated or exclusionary perspectives, often shaped by the medical model of disability, which focuses on impairment rather than accessibility. This guide provides an alternative framework using rights-based, functional, and disability justice models to remove barriers, ensure legal clarity, and support equal access to justice.

This guide is structured to:

- Explain different models of disability and their impact on legal language.
- Clarify the distinction between having a disability and being disabled.
- Provide strategies for transparent and inclusive legal communication, including plain language.
- Outline courtroom best practices for addressing competency, jury selection, witness credibility, and accommodations.
- Offer guidance on avoiding stigmatizing and ableist language.

I. The Importance of Language in Legal Settings

Legal professionals are expected to use clear and transparent, impartial, and equitable language in all verbal or written interactions. The language used in legal settings influences:

- How judges interpret cases involving individuals with disabilities.
- How juries assess witness credibility.
- How attorneys advocate for clients.
- How legal documents frame individuals' rights, responsibilities, and access to justice.

I.I Using Unclear or Outdated Language Can:

- **Undermine credibility:** Language that reinforces stereotypes about disability, mental health, or neurodiversity can misrepresent an individual's capabilities.⁷
- **Create procedural challenges:** Complex or inaccessible language in legal documents can make it difficult for individuals with disabilities to understand their rights.⁸
- **Influence legal outcomes:** When courts rely on assumptions about disability (e.g., assuming an individual with a psychiatric condition is unreliable), decisions may not reflect objective legal standards.⁹

Clear communication is good practice and supports due process and justice participation. For people with disabilities, outdated or inaccessible language can create confusion, misrepresent their experiences, and limit their ability to assert their rights. Legal professionals can help reduce these barriers by using language that promotes understanding, preserves dignity, and supports full engagement in legal processes.

⁷ Vera Institute of Justice. *How Safe Are Americans with Disabilities?* February 2021. <https://vera-institute.files.svdcdn.com/production/downloads/publications/How-safe-are-americans-with-disabilities-web.pdf>.

⁸ U.S. Department of Justice. *ADA Requirements: Effective Communication*. <https://www.ada.gov/resources/effective-communication/>

⁹ American Bar Association. "Implicit Bias and People with Disabilities." ABA Commission on Disability Rights. https://www.americanbar.org/groups/diversity/disabilityrights/resources/implicit_bias/

II. Why Plain Language Matters

Legal language can often be overly complex or technical, making it difficult for individuals, particularly those with disabilities, limited English proficiency, or unfamiliar with legal processes, to understand their rights and obligations fully. Plain language improves accessibility by making legal information easier to process, reducing confusion, and supporting meaningful participation in legal proceedings.¹⁰

II. I Best Practices for Using Plain Language

- Use straightforward words instead of legal jargon when possible.
- Keep sentences concise and structured to make them easy to follow.
- Replace complex terminology with commonly understood alternatives, except when specific legal wording is required.
- Provide written materials in accessible formats, such as braille, large print, and simplified text versions.
- Use active voice instead of passive voice to increase clarity.
- Offer alternative communication methods (e.g., visual aids, verbal explanations, or digital formats).

Implementing and integrating plain language practices is more than just a communication preference; it is a responsibility grounded in access to justice. Legal professionals must ensure that all individuals, regardless of disability, language proficiency, or familiarity with the legal system, can fully understand and engage in legal proceedings. Plain language reduces confusion, promotes fairness, and builds trust between court users and the legal system. When language is inclusive, accessible, and transparent, it supports equitable outcomes and affirms the dignity of every person who interacts with the courts.

¹⁰ What Is Plain Language? <https://www.plainlanguage.gov/about/definitions/>

Examples of Plain Legal Language in Courtroom Statements:

Avoid Saying	Use Instead
The party mentioned above shall henceforth adhere to the stipulations outlined herein.	"You must follow these rules starting today."
"Pursuant to the court order, the respondent shall adhere to the legal obligations contained within this document."	"The court order requires the respondent to follow these rules."
"The defendant was adjudicated as legally incompetent."	"The court decided the defendant cannot make legal decisions independently."
"Individuals with auditory impairments must request auxiliary aids in accordance with federal statutes."	"If you are deaf or hard of hearing, you have the right to request for communication support."

Using plain language in legal settings allows all participants, regardless of disability status or legal knowledge, to engage fully and understand their rights and responsibilities.

Additionally, courts should ensure accessibility for individuals with limited English proficiency (LEP). Language barriers should not prevent meaningful participation in legal proceedings.¹¹

¹¹ U.S. Department of Justice, Office of Justice Programs. *Language Access Plan*. Revised January 2025. <https://www.ojp.gov/ojp-language-access-plan>

II.II Courts should:

- Provide certified interpreters upon request.
- Allow additional time for processing information.
- Offer legal documents in multiple languages when possible.

As part of their responsibility to ensure fairness, courts must proactively address language access needs. This includes providing meaningful participation for individuals with limited English proficiency (LEP) who may otherwise face barriers in understanding and engaging in legal proceedings.

III. Clarifying the Distinction Between Having a Disability and Being Disabled in Legal Contexts

Legal professionals should recognize that "having a disability" and "being disabled" ¹² are not always interchangeable. Using these terms in legal proceedings, rulings, and documentation can significantly impact legal interpretations, accommodations, and case outcomes.

- Having a disability refers to a medical or functional condition that may impact daily life or require accommodations.
- Being disabled often results from societal, structural, and legal barriers that limit full participation rather than the disability itself.

¹² Leslie Francis and Anita Silvers. "Perspectives on the Meaning of 'Disability.'" *AMA Journal of Ethics* 18, no. 10 (October 2016): 1025–1033. <https://journalofethics.ama-assn.org/article/perspectives-meaning-disability/2016-10>

III. I Why This Matters in Legal Proceedings

- The Medical Model frames disability¹³ As an individual impairment that must be "fixed" or mitigated.
- The Rights-Based Model¹⁴ Ensures individuals receive accommodations and legal protections rather than being excluded due to assumptions about capacity.
- The Functional Model focuses on what a person can do with accommodations rather than assuming incapacity.¹⁵
- The Disability Justice Model recognizes that barriers to participation are systemic and often compounded by race, gender, or economic status.¹⁶

III.II Examples of Language Shifts in Court Settings

- **Competency Determinations:**
 - **Avoid:** "The defendant is disabled and unable to understand legal proceedings."
 - **Use Instead:** "The defendant has a disability and requires accommodations to participate effectively in legal proceedings."
- **Jury Selection:**
 - **Avoid:** "The juror is disabled and cannot serve due to their hearing impairment."
 - **Use Instead:** "The juror has a hearing disability and requires ASL interpretation to fully participate in deliberations."
- **Witness Credibility:**
 - **Avoid:** "The witness's PTSD may make their memory unreliable."

¹³Samuels, Allison K. "Disability as an Open Category: Thinking Toward Anti-Ableist Legal Theory." *University of Pennsylvania Law Review* 170, no. 3 (2022): 741–800

https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=9791&context=penn_law_review

¹⁴ Collaborative Law Institute. "Part I: Advocacy in the Rights-Based Court Model."

<https://collaborativelaw.org/part-i-advocacy-in-the-right-based-court-model/><https://collaborativelaw.org/part-i-advocacy-in-the-right-based-court-model/>

¹⁵ Disability in Public Health. "Disability-Inclusive Language and Imagery." <https://disabilityinpublichealth.org/1-1/>

¹⁶ World Institute on Disability. "Moving from Disability Rights to Disability Justice." <https://wid.org/moving-from-disability-rights-to-disability-justice/>

- **Use Instead:** "The witness has PTSD and may require accommodations for effective testimony."
- **Sentencing Considerations:**
 - **Avoid:** "The defendant's intellectual disability increases their risk of recidivism."
 - **Use Instead:** "Sentencing should consider disability-related supports and alternative options before determining risk."

By ensuring legal language and decisions align with rights-based, functional, and disability justice models, courts can create more fair, accessible, and inclusive proceedings.

IV. Moving Beyond the Medical Model: Adopting Rights-Based, Functional, and Disability Justice Approaches in Legal Settings

The medical model of disability views disability as a problem located in the individual's body or mind, something to be fixed, cured, or managed. It emphasizes diagnosis, treatment, and impairment, rather than considering how systems, environments, and attitudes create barriers. In legal settings, this model can lead to practices that pathologize disabled people rather than ensuring their access, autonomy, and participation. Historically, courts have relied on the medical model¹⁷ treating disability as a condition to be treated or cured rather than recognizing the legal and structural barriers that prevent meaningful participation.

IV. I This Outdated Approach Has Contributed To:

- Unnecessary competency rulings
- Harsher sentencing
- Exclusion from jury service
- Unreliable witness assessments based on assumptions.

¹⁷ Schwartz, Ira M. "Delinquency and the Medical Model: Arguments Against Medicalization." *National Criminal Justice Reference Service*. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/delinquency-and-medical-model-arguments-against-medicalization>

By contrast, rights-based¹⁸, functional¹⁹, and disability justice models acknowledge that barriers arise not from the individual but from inaccessible systems and biased norms. Rights-based models emphasize legal protections, equal treatment, and autonomy. Functional models focus on how a person's abilities interact with their environment, highlighting the role of accommodations and access. Disability justice centers lived experience, intersectionality, and collective liberation, with a focus on removing structural inequities. These approaches shift the focus from impairments to social and environmental barriers and support legal practices that uphold dignity, participation, and equity for people with disabilities, not just procedural compliance.

¹⁸ Disability Advocacy Resource Unit. "Introducing the Human Rights Model of Disability." <https://daru.org.au/daru-publication/how-we-talk-about-disability-matters/introducing-the-human-rights-model-of-disability/>

¹⁹ Disability in Public Health. "Functional Model." <https://disabilityinpublichealth.org/1-1/#:~:text=Functional%20Model%20%E2%80%93%20This%20model%20is,ability%20to%20perform%20functional%20activities.>

Examples of How Different Disability Models Shape Legal Language

Legal Context	Medical Model (Avoid)	Social Model (Barrier-Focused)	Rights-Based Model (Legal Protections)	Functional Model (Support-Oriented)	Disability Justice Model (Intersectional & Lived Experience Focused)
Competency	"The defendant is incompetent due to a cognitive impairment."	"The court process presents barriers that impact the defendant's ability to participate."	"The defendant has the right to accommodations under disability law."	"The defendant can fully engage in legal proceedings with appropriate support."	"Competency evaluations must consider systemic barriers and historical biases against disabled individuals."
Sentencing	"The defendant's intellectual disability increases recidivism risk."	"Prison environments are inaccessible and create additional barriers for disabled individuals."	"Sentencing should be adjusted to ensure disability-related needs are met."	"Alternatives to incarceration should be considered to account for support needs."	"Carceral systems disproportionately harm disabled individuals, particularly those who are people of color."
Witness Testimony	"The witness has PTSD, which may affect their reliability."	"The court process may trigger trauma responses in the witness."	"Witnesses have the right to accommodations during testimony."	"With trauma-informed questioning, the witness can provide accurate testimony."	"Courts must recognize how trauma, race, and disability intersect to impact how testimony is perceived."
Court Participation	"The defendant's disability prevents them from understanding the case."	"The court environment creates accessibility challenges for the defendant."	"The defendant has a legal right to communication accommodations."	"With structured supports, the defendant can effectively engage in the case."	"Disabled defendants experience additional legal disadvantages due to structural inequities in the justice system."

IV.II Courtroom Best Practices: Implementing Inclusive Legal Approaches

A courtroom that reflects fairness and accessibility should move beyond the medical model and incorporate principles from the social, rights-based, functional, and disability justice models to ensure equal participation and accurate assessments of individuals with disabilities.

IV.III Key Practices for Inclusive Legal Proceedings

I. Prioritizing Accommodations Over Limitations

- Instead of assuming an individual cannot participate, courts should identify and implement the necessary supports to ensure full engagement.
- **Example:** Instead of stating, “The defendant cannot understand due to a cognitive impairment,” use “The defendant requires simplified legal language and additional processing time to engage in proceedings.”

II. Using Disability-Neutral and Functional Language

- **Avoid** deficit-based language that assumes incapacity rather than accessibility needs.
- **Example:** Instead of “The witness suffers from schizophrenia,” use “The witness has schizophrenia and requires accommodations for effective participation.”

III. Reducing Bias in Witness Credibility Assessments

- Nontraditional communication styles, such as avoiding eye contact, monotone speech, or delayed responses, should not be misinterpreted as dishonesty or lack of credibility.
- **Example:** Instead of “The witness appears anxious and untrustworthy,” use “The witness communicates in a way that may differ from neurotypical norms but is providing relevant testimony.”

IV. Promoting Inclusive Jury Selection

- Jurors with disabilities should not be excluded based on assumptions regarding their ability to serve.
- **Example:** Instead of “A juror with ADHD may have difficulty focusing,” use “Jury deliberation should allow structured breaks to support all jurors in maintaining focus.”

Understanding these models equips lawyers and professionals with a more comprehensive framework for interpreting disability in court settings. Moving away from deficit-based perspectives and toward approaches that recognize legal rights, functional needs, and systemic barriers creates a more just and inclusive legal process. These models offer the foundation for how courts can better evaluate accommodations, credibility, and participation without relying on outdated assumptions.

Before reviewing the many types of disabilities that appear in court settings, examining how language impacts one especially vulnerable population, the youth population. Disabled children and teens face heightened risks of misunderstanding, overpathologizing, and exclusion, especially in juvenile, dependency, and education-related court systems. The following section offers practical guidance for using affirming, developmentally appropriate language when working with or writing about youth.

V. Language for Supporting Youth with Disabilities in Court

Youth with disabilities are significantly overrepresented in juvenile, dependency, and education-related legal systems. Many enter court due to school discipline, communication misunderstandings, or unaddressed trauma, not criminal intent. In these settings, language carries heightened consequences. The words professionals use in hearings, case files, and interactions can either reinforce harmful stereotypes or create pathways for dignity and participation.

This section offers guidance on respectful, developmentally appropriate, and trauma-informed language when working with or referring to children and teens. It includes real-world phrasing examples for discussing behavior, medication, education, and legal comprehension, and provides tools to reduce bias and support meaningful engagement.

V.I Legal Comprehension & Understanding

Youth with disabilities often answer “yes” to legal questions they don’t fully understand, either to avoid embarrassment or due to processing differences.²⁰ Open-ended phrasing helps ensure real comprehension and protects procedural rights.²¹

Avoid This Language	Use This Language Instead
Do you understand the charges?	Can you tell me what you think is happening in your own words?
Do you understand your rights?	What do you understand about your rights today?

²⁰ Gault Center. *Using Developmentally Appropriate Language in Juvenile Court*. . <https://www.defendyouthrights.org/wp-content/uploads/2014/10/Language-HR-10.8.14.pdf>.

²¹ National Council of Juvenile and Family Court Judges. *Applying Principles of Adolescent Development in Delinquency Proceedings*. <https://www.ncjfcj.org/bench-cards/applying-principles-of-adolescent-development-in-delinquency-proceedings/>

Behavior Descriptions & Bias

Describing youth behavior using terms like “defiant” or “non-compliant” misinterprets what may be disability-related communication differences, trauma responses, or sensory distress.²² These labels frame behavior as intentional disobedience, rather than as signs of unmet support needs or difficulty self-regulating. Using neutral, descriptive language helps legal professionals interpret behavior in context and respond with appropriate accommodations or adjustments.²³

Avoid This Language	Use This Language Instead
Defiant	Needed more time or support to respond
Aggressive	Appeared frustrated or overwhelmed
Non-compliant	Had difficulty processing or expressing needs

Education and Disability Context

Schools are often the first institutions to label disabled youth, especially students with behavioral, communication, or learning differences. These labels, such as “troublemaker,” “disruptive,” or “special ed kid,” can follow youth into the court system and shape how they are perceived by judges, attorneys, and court staff.²⁴ Deficit-based language reinforces stigma, overlooks the role of unmet support needs, and contributes to the school-to-court pipeline, particularly for Black, brown, and low-income students with disabilities.²⁵

²² American Bar Association, Commission on Disability Rights. *Implicit Bias and Disability*. https://www.americanbar.org/groups/diversity/disabilityrights/resources/implicit_bias/.

²³ National Council of Juvenile and Family Court Judges. *Seeing What’s Underneath: A Resource for Understanding Behavior and Using Language in Juvenile Court*. <https://www.ncjfcj.org/publications/seeing-whats-underneath-a-resource-for-understanding-behavior-and-using-language-in-juvenile-court/>.

²⁴ National Education Association. *Disproportionality in Special Education Fueled by Implicit Bias*. <https://www.nea.org/nea-today/all-news-articles/disproportionality-special-education-fueled-implicit-bias>.

²⁵ Kenny, Lorri. *Effects of Disability Labels on Students with Exceptionalities: A Literature Review*. West Virginia Department of Education, 2012.

Avoid This Language	Use This Language Instead
Special ed kid	Student receiving special education services
Problem child	Student with unmet support needs
Behavior issue	Behavior linked to communication or support gaps

Avoiding Overmedicalization in Court Language

Courts often use clinical terms like “stabilized” or “unmedicated” when describing youth, often without considering trauma, disability, or environmental context.²⁶ This language can suggest that a young person’s behavior is a medical failure rather than a sign of unmet needs. Framing behavior through support and structure, not medication status, promotes dignity and aligns with rights-based legal interpretation.²⁷

Avoid This Language	Use This Language Instead
Needs to be medicated	May benefit from supportive strategies or accommodations
Unmedicated episode	Appeared distressed or overwhelmed
Stabilized through medication	Supported through structure, routine, or tailored interventions
Refuses to take meds	May have concerns about side effects or autonomy
Behavior not improving despite treatment	Behavior may reflect unmet support needs or miscommunication

https://wvde.us/sites/default/files/2018/01/LitReview_EffectsofDisabilityLabelsonStudentswithExceptionalities2012.pdf.

²⁶ Colker, Ruth. *Overmedicalization?* Harvard Journal of Law & Gender 46 (2023).

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4622766.

²⁷ *Early and Periodic Screening, Diagnostic and Treatment (EPSDT)*.

Medicaid.gov. <https://www.medicaid.gov/medicaid/benefits/early-and-periodic-screening-diagnostic-and-treatment/index.html>.

Trauma-Informed Courtroom Language

Many disabled youths in court have experienced trauma, including foster care placement, family separation, or institutionalization. Standard courtroom language, especially when directive, accusatory, or dismissive, can trigger fear, shame, or shutdown responses.²⁸ Trauma-informed language focuses on emotional safety, patience, and validation, helping youth feel heard and reducing escalation. This approach supports engagement, trust, and more accurate communication.²⁹

Avoid This Language	Use This Language Instead
You need to calm down	It's okay to take a moment / You are safe here
What's wrong with you?	Are you okay? Would you like to take a break or explain in your own way?
Why didn't you say something earlier?	Thank you for telling us now / I understand it can take time
That's not appropriate behavior	Let's find another way to communicate what you're feeling

Language used with and about disabled youth has a lasting impact. Misunderstood behavior, overmedicalization, and biased labeling can all lead to harmful outcomes that begin in childhood and echo into adulthood. By using respectful, developmentally appropriate, and trauma-informed language, legal professionals help protect the rights of young people and create space for meaningful participation. The following section builds on this foundation by outlining the diverse types of disabilities that appear in court and the communication strategies that support each.

²⁸ National Council of Juvenile and Family Court Judges. *Creating Trauma-Informed Courts*.

<https://www.ncjfcj.org/child-welfare-and-juvenile-law/trauma-informed-courts/>.

²⁹ American Bar Association. *Considering Childhood Trauma in the Juvenile Justice System*.

https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol_32/november-2013/considering-childhood-trauma-in-the-juvenile-justice-system--gui/

VI. Recognizing Different Types of Disabilities

Understanding the range of disabilities that appear in court settings helps ensure that accommodations, communication methods, and legal processes are inclusive and appropriate. While disabilities are often categorized for the purpose of clarity or legal guidance, it is important to recognize that individuals may experience multiple disabilities at once, and those experiences can vary widely.

Legal professionals should avoid assuming capacity, communication ability, or behavior based on diagnosis alone or the absence of one. Many disabilities are not visible, not formally documented, or not disclosed due to stigma or fear. Building familiarity with different disability categories, while staying focused on access and support, helps reduce bias and ensures a more just legal process

Common Disability Categories:

Category	Examples
Developmental Disabilities	Autism, cerebral palsy, and Down syndrome
Intellectual Developmental Disabilities (IDD)	Down syndrome, Fetal Alcohol Spectrum Disorder (FASD)
Psychiatric Disabilities	PTSD, schizophrenia, bipolar disorder
Physical Disabilities	Spinal cord injuries, cerebral palsy, muscular dystrophy
Communication-Related Disabilities	Individuals who use AAC, speech devices, ASL, or letterboards
Non-Apparent (Hidden) Disabilities	PTSD, Autism, ADHD, Chronic Pain, Sensory Issues Diabetes, Migraines, Epilepsy, AIDS/HIV, etc.

VI.I Distinguishing Between Congenital and Acquired Disabilities

Courts should consider how the origin or type of disability (e.g., congenital versus acquired) may impact accommodation needs and interpretation of capacity.

- Congenital disabilities are present from birth and may result from genetic factors, environmental influences, or a combination of both (e.g., Down syndrome, cerebral palsy).
- Acquired disabilities develop later in life due to illness, injury, or other factors (e.g., spinal cord injury, stroke, PTSD).

Recognizing the difference between congenital and acquired disabilities helps ensure that accommodations are not one-size-fits-all. Courts should tailor support based on a person's lived experience, adaptation over time, and individual needs, not just diagnosis or category. This approach supports fairness, dignity, and full participation in legal settings.³⁰

VI. II Recognizing Hidden Disabilities and Undisclosed Disabilities & Providing Accommodations

Not all disabilities are visible, formally diagnosed, or openly shared. Individuals with psychiatric, cognitive, sensory, or chronic health conditions may face substantial barriers in legal settings, often without receiving needed support. Courts must be prepared to recognize and respond to disability-related needs, even when they are not immediately apparent.

- Hidden disabilities (e.g., PTSD, ADHD, chronic pain conditions) are not immediately visible but can impact participation in legal proceedings.³¹

³⁰ Iezzoni, Lisa I. "Public Health Goals for Persons with Disabilities: Looking Ahead to 2020." *Disability and Health Journal* 4, no. 3 (2011): 111–115.
<https://pubmed.ncbi.nlm.nih.gov/24611927/#:~:text=Although%20people%20with%20congenital%20disabilities,t he%20mechanisms%20behind%20these%20differences.>

³¹ Know the ADA. "How the ADA Addresses Invisible Disabilities." <https://know-the-ada.com/how-the-ada-addresses-invisible-disabilities/#:~:text=Understanding%20Invisible%20Disabilities,provide%20equal%20opportunities%20for%20all.>

- Courts should provide accommodations such as extended response time, sensory adjustments, or alternative communication methods.
- Not everyone with a disability will disclose their condition. Courts should assume that some individuals may need accommodations even if they have not formally requested them.
- Many people are undiagnosed. Neurodivergent individuals or those with psychiatric disabilities may not yet have a diagnosis, but still face challenges with legal language and communication

VI.III Considerations for Legal Professionals

- Recognize that disabilities affect individuals differently. Two people with the same condition may have very different needs or challenges.
- Avoid assumptions based on appearance. Not all disabilities are visible, and individuals may require accommodations even if their physical challenges are not visible.
- Ensure that accommodations support full participation. Individuals may need additional processing time, alternative communication methods, or modifications to courtroom procedures.

Examples of Thoughtful Language in Courtroom Proceedings:

Avoid Saying	Use Instead
"The witness is mentally ill and unfit to testify."	"The witness may require accommodations related to a mental health condition in order to provide effective testimony."
"The defendant is slow and has trouble keeping up with the case."	"The defendant has an intellectual disability and benefits from clear explanations."
"The plaintiff has a hearing problem and needs help."	"The plaintiff is hard of hearing and uses a Sign Language interpreter."

VII. Person First vs. Identity First Language

Many disability communities have different preferences regarding how they describe themselves. Some prefer person-first language (e.g., "person with autism"), while others prefer identity-first language (e.g., "autistic person"). When possible, ask individuals how they like to be identified.³²

Examples of Person First and Identity First Language:

Community	Person-First Language	Identity-First Language
General Disability Reference	"Person with a disability"	"Disabled person"
Autism	"Person with autism"	"Autistic person"
ADHD	"Person with ADHD"	"ADHD person"
Deaf Community	"Person who is deaf"	"Deaf person"
Blind Community	"Person who is blind"	"Blind person"
Mobility Disability	"Person who uses a wheelchair"	"Wheelchair user"

While categories can help guide understanding, it is important to remember that disability experience is not a one-size-fits-all. Legal professionals should remain flexible and attentive to individuals' needs rather than relying solely on diagnostic labels or generation. A commitment to recognizing diverse experiences fosters fairness and ensures that court practices remain inclusive and respectful.

³² University of Kansas. "Person-First vs. Identity-First Language."
<https://educationonline.ku.edu/community/person-first-vs-identity-first-language>

VIII. Avoiding Stigmatizing and Casual Ableist Language

Why Word Choice Matters

In legal settings, language does more than communicate facts; it shapes how people are perceived and how decisions are made. Outdated, overly broad, or casually used terms can unintentionally reinforce stigma, invite bias, or misrepresent a person's capacity or experience. Thoughtful word choice is essential for ensuring clarity, fairness, and respect in every part of the legal process.³³

VIII. I Why High-Functioning and Low-Functioning Terms Should Be Avoided

Terms like "high-functioning" and "low-functioning" are misleading and should be avoided because:³⁴

- They oversimplify disability. These terms suggest that disability exists on a simple scale when, in reality, individuals have diverse and complex support needs.
- They minimize individual challenges. A person labeled as "high-functioning" may still experience significant barriers, while someone labeled "low-functioning" may have overlooked strengths.
- They reinforce harmful assumptions. These labels can lead to incorrect expectations about a person's abilities, affecting legal outcomes and accommodations.

³³ Hawthorne, Britt. "15 Common Phrases That Are Ableist (And What to Say Instead)." *Britt Hawthorne Blog*. <https://britthawthorne.com/blog/ableist-language/>

³⁴ Chandler, Jennie. "Why Functioning Labels Can Be Harmful for People with Autism." *Healthline*. Last modified April 28, 2023. <https://www.healthline.com/health/autism/functioning-labels-autism>

Avoid Saying	Use Instead
"The defendant is high-functioning, so they don't need accommodations."	"The defendant requires minimal support in some areas and may need accommodations for courtroom participation."
"The plaintiff is low-functioning and cannot understand the proceedings."	"The plaintiff requires additional support to fully participate in the proceedings."

Examples of Avoiding Stigmatizing Language:

In certain everyday phrases and words, can unintentionally reinforce outdated or stigmatizing views, particularly when referring to mental health, disability, or identity. Even small word choices can influence how individuals are perceived in legal settings. The examples below offer respectful alternatives that support clarity, dignity, and inclusive communication.

Avoid Saying	Use Instead
"Committed suicide"	"Died by suicide" / "Experienced a fatal mental health crisis"
"Wheelchair-bound"	"Wheelchair user"
"Manic" (unless clinically relevant)	"Energetic" / "Restless"
"Triggered / PTSD moment"	"Distressed reaction" / "Trauma response"

IX. Proper Use of "Competency" in Legal and Medical Contexts

The concept of competency plays a critical role in legal proceedings, but it should be used accurately and without prejudice. Competency determinations should not assume a person's inability based on disability alone.³⁵ Even when a court finds an individual incompetent, accommodations should not be discontinued. Courts must ensure individuals still have access to understand and engage in proceedings as much as possible.

- Legal competency refers to a person's ability to understand legal proceedings and make informed decisions. It should not be used as a synonym for cognitive ability.³⁶
- Medical competency refers to a person's ability to make informed medical decisions and is more accurately referred to as "medical decision-making capacity."
- Courts should consider reasonable accommodations before determining competency.

³⁵ Council of State Governments Justice Center. *Just and Well: Rethinking How States Approach Competency to Stand Trial*. October 2020. <https://csgjusticecenter.org/wp-content/uploads/2020/10/Just-and-Well27OCT2020.pdf>

³⁶ Washington State Bar Association. *Access Guide for Washington Administrative Proceedings*. 2011. https://www.wsba.org/docs/default-source/legal-community/sections/adm/resources/adm_resources_access_guide_for_wa_administrative_proceedings_2011.pdf

Examples of Language Use in Competency Determinations & Preferred Alternatives:

Avoid Saying	Use Instead
"The defendant is incompetent due to intellectual disability."	"The defendant requires communication accommodations to fully understand and participate in legal proceedings."
"The witness has schizophrenia, so their testimony is unreliable."	"The witness has a psychiatric disability but is capable of providing accurate testimony with appropriate accommodations."
"The defendant lacks competency because they are autistic."	"The defendant requires support to process and communicate legal information effectively."
"Because of their traumatic brain injury, the plaintiff cannot understand these legal terms."	"The plaintiff may require simplified explanations or assistive technology to comprehend legal terminology."
"The juror has ADHD and will not be able to focus during the trial."	"The juror has ADHD and may benefit from structured courtroom accommodations."

Ensuring competency is addressed with nuance and care protects the rights of individuals with disabilities. By focusing on access needs rather than diagnostic labels, courts can uphold fairness and provide meaningful opportunities for engagement in the legal process.

X. Witness Testimony, Jury Selection & Language Disparities

Courts must ensure that language, disability, and communication differences do not unfairly influence how individuals are perceived during trials. This includes how witnesses testify, how jurors are selected and instructed, and how courts address disparities in understanding or expression.

People with disabilities, especially those who communicate differently or require accommodations, are often judged unfairly by legal professionals and jurors. Courts risk misinterpreting affect, tone, or behavior without clear guidance as indicators of credibility or lack thereof. This section outlines inclusive practices for supporting witnesses and jurors while addressing language-based disparities that can affect trial outcomes.

- Witnesses with disabilities should not be assumed unreliable due to differences in communication, body language, or memory recall.
- A non-verbal witness may use AAC devices, interpreters, letterboards, or written responses to provide testimony.
- Some disabilities, such as autism or cerebral palsy, may impact speech patterns, eye contact, or facial expressions but do not affect credibility.
- Trauma responses (e.g., PTSD flashbacks, dissociation, difficulty recalling specific details) should not be misinterpreted as evasiveness or deception.

Examples of Preconceptions in Witness Testimony & Preferred Alternatives:

Avoid Saying	Use Instead
"The witness is non-verbal, so their testimony isn't reliable."	"The witness will provide testimony using an AAC device or written responses."
"The plaintiff's PTSD makes their memory unreliable."	"The plaintiff has PTSD and may require accommodations to provide clear testimony."
"The defendant's facial expressions make them seem dishonest."	"The defendant's communication style differs due to autism but does not indicate dishonesty."
"Because the witness has anxiety, they may not be able to answer questions properly."	"The witness may benefit from breaks and alternative response methods."
"A witness with Down syndrome cannot understand court procedures."	"The witness may require plain language explanations and additional processing time."

X. I Jury Selection Considerations

People with disabilities have a right to participate fully in jury service. However, they are often excluded intentionally or unintentionally due to assumptions about communication, attention, or cognitive ability. Ensuring meaningful inclusion of disabled jurors is important in creating fair and representative legal processes.

Jurors should receive clear instructions that explain how disability-related communication differences, such as atypical eye contact, flat affect, or stimming, should not be misinterpreted as signs of dishonesty or disinterest. Legal professionals must also recognize that many disabled individuals can fulfill the role of a juror when given appropriate accommodations.

- Jurors with disabilities should not be excluded due to assumptions about their ability to participate.³⁷
- Accommodations for jurors (e.g., braille materials, screen readers, additional processing time) should be provided as needed.
- Neurodivergent jurors (e.g., ADHD, autism) may have different processing speeds or attention patterns, but this does not affect their ability to evaluate evidence.
- Courts should ensure jurors who require accommodations are not perceived as less capable of fulfilling their role.

The Washington Pattern Jury Instructions (WPIC) provide standardized guidance to jurors. For instance, WPIC 4.75³⁸ addresses the completion of the trial and the jurors' discussion of the case. While it does not explicitly mention disability, it underscores the importance of clear communication and understanding among jurors. Legal professionals should consider supplementing standard instructions with additional guidance that addresses disability-related communication differences to ensure fair and unbiased deliberations.

****Courts have limited ability to alter standard jury instructions, particularly in criminal cases where WPIC is required. However, courts should explore providing supplemental explanation, where permitted, to support comprehension for jurors with disabilities. ****

³⁷ National Center for State Courts. *Access to Justice for Jurors with Disabilities: Final Report*. 2023. https://www.ncsc-jurystudies.org/_data/assets/pdf_file/0014/7340/juror-with-disabilities-final-report.pdf

³⁸ Washington Pattern Jury Instructions: WPIC 4.75 – Completion of Trial—Jurors' Discussion of Case, Washington Courts, <https://govt.westlaw.com/wcrij/Document/I0938b402a75611dd8931e514b9d4bd12>.

Examples of Language Use in Jury Selection & Preferred Alternatives:

Avoid Saying	Use Instead
"Jurors with psychiatric disabilities may not be able to understand complex cases."	"Jurors with disabilities, like all jurors, should be assessed based on their ability to evaluate evidence."
"A blind juror may not be able to interpret key evidence."	"A blind juror can receive evidence in accessible formats such as braille or audio descriptions."
"Jurors with ADHD may have trouble focusing during long trials."	"Jurors with ADHD, like all jurors, should be assessed on their ability to stay engaged with proceedings."
"A juror with an intellectual disability might not understand the case."	"Jurors should be evaluated based on their ability to follow instructions and legal arguments."

Fair treatment for witnesses and jurors requires more than procedural fairness. It demands recognition of diverse communication styles and process needs.

Acknowledging and accommodating these differences promotes credibility, respect, and justice.

XI. Courtroom Accommodations & Procedural Adjustments

Ensuring equal access to legal proceedings involves providing reasonable accommodations that enables individuals with disabilities to participate fully in courtroom activities.³⁹

XI.I Types of Accommodations That Can Improve Accessibility:

Communication Accommodations

- Sign language interpreters, CART captioning, and written communication tools for individuals who are deaf or hard of hearing.
- AAC devices, text-to-speech apps, and letterboards for non-verbal participants.

Cognitive & Processing Accommodations

- Plain language explanations for complex legal terminology.
- Extended processing time to allow individuals with intellectual disabilities to comprehend information.
- Visual aids or simplified written documents to support understanding.

Sensory & Physical Accommodations⁴⁰

- Reduced noise levels or designated quiet areas for individuals with sensory processing challenges.
- Permission to wear noise-canceling headphones for individuals with auditory sensitivities.
- Adjust lighting and seating for individuals with sensory sensitivities or mobility impairments.

³⁹ Dhanda, Amita. "Procedural Accommodation Needed for Persons with Psychosocial or Intellectual Disabilities in Criminal Justice Processes." *Health and Human Rights Journal*, June 13, 2024.

<https://www.hhrjournal.org/2024/06/13/procedural-accommodation-needed-for-persons-with-psychosocial-or-intellectual-disabilities-in-criminal-justice-processes/>

⁴⁰ Maryland Judiciary. *14 Tips for Ensuring Effective Communication with People with Disabilities*. Accessed April 2025. <https://www.courts.state.md.us/sites/default/files/import/legalhelp/pdfs/accessibility/14tips.pdf>

Flexible Response Accommodations

- Allowing alternative response methods such as written testimony, voice recordings, or typed responses when verbal communication is difficult.
- Providing regular breaks for individuals with disabilities that affect focus, stamina, or stress tolerance.

Examples of Common Courtroom Barriers & How to Address Them:

Barrier	Solution
"The defendant must answer quickly and verbally."	"The defendant may take additional time to respond and may use assistive technology if needed."
"The witness cannot make eye contact, so they seem untrustworthy."	"Some individuals communicate differently; lack of eye contact does not indicate dishonesty."
"Courtrooms are too noisy for individuals with sensory sensitivities."	"Sensory-friendly modifications, such as lowering background noise, can be provided."
"Jury instructions are too complex for jurors with intellectual disabilities."	"Instructions can be provided in plain language or alternative formats."

Accessible courtrooms are pivotal to equitable justice. Proactively addressing barriers through accommodations ensures that all individuals, regardless of disability, can fully exercise their rights and participate in legal proceedings.

Final Thoughts

The language used in legal settings directly impacts access to justice, procedural fairness, and courtroom participation. By using thoughtful and precise language, legal professionals can help create a system where individuals, regardless of disability status, can fully engage in legal proceedings without unnecessary barriers.

Key Takeaways for Legal Professionals

Use inclusive and respectful language.

- Avoid language that reinforces outdated assumptions or creates unnecessary barriers for individuals with disabilities.
- Recognize that not all individuals communicate similarly; some may need alternative formats, additional processing time, or communication aids.
- Be mindful of how language can shape competence, credibility, or emotional state perceptions.

Consider plain language principles.

- Ensure that legal documents, instructions, and spoken communication are clear and accessible.
- When possible, replace complex legal terminology with direct, easy-to-understand alternatives.
- Provide legal materials in multiple formats (e.g., braille, large print, audio, or simplified versions) to accommodate different needs.

Recognize that disability does not equate to incompetence.

- An individual with a disability may require accommodations but can still fully participate in legal proceedings.
- Avoid language that implies incapability, for example, instead of “the witness is mentally ill and unfit to testify,” state “the witness has a psychiatric disability and may require accommodations to testify effectively.”

- Consider how processing time, alternative communication methods, or additional supports can allow an individual to engage meaningfully in a legal setting.

Provide Adequate Courtroom Accommodations.

Courtrooms should be physically and procedurally accessible. Consider accommodations such as:

- Sensory adjustments (e.g., reducing noise, allowing noise-canceling headphones, modifying lighting).
- Alternative communication methods (e.g., allowing written responses, AAC devices, sign language interpreters, real-time captioning).
- Flexible scheduling or breaks for individuals who experience fatigue, sensory overload, or stress-related conditions.
- Flexibility around dress code for individuals with sensory processing needs, medical conditions, or disabilities that require adaptive clothing.

Avoid unintended assumptions about witness credibility and jury selection.

- Recognize different communication styles, not all individuals make direct eye contact, show facial expressions in expected ways, or verbalize responses quickly.

Avoid assumptions such as:

- The witness was emotionless, which suggests dishonesty.
- The juror's psychiatric disability may affect their ability to evaluate evidence.
- Ensure that jurors are not excluded based on misconceptions about their ability to serve.

Be proactive about accessibility.

- Consider accessibility needs from the outset rather than addressing barriers as they arise.
- Courts can adopt inclusive policies that proactively accommodate a variety of needs, including:
 - Pre-trial accommodation planning for individuals with disabilities.

- Clearer jury instructions and alternative formats for legal documents.
- Training for judges, attorneys, and court staff on accessibility and inclusive language.

Commitment to Fair and Accessible Legal Practices

Legal professionals play an essential role in ensuring that language does not create unnecessary barriers to justice. A commitment to neutral, inclusive, and accessible communication helps build a legal system where all individuals, regardless of disability, communication style, or background, can participate fully and fairly.

- By implementing these best practices, courts can:
 - Ensure that legal processes are accessible to all individuals.
 - Improve clarity and understanding in legal proceedings.
 - Create a courtroom environment that fosters fairness and respect.
 - Reduce the risk of legal errors due to miscommunication or bias.
 - Uphold the ethical and legal standards of justice under the ADA, Section 504, and professional conduct codes.

This guide is intended as a living resource that supports legal professionals in continually learning, reflecting, and adapting communication practices to meet the needs of an evolving and diverse society. Thoughtful language is not simply a matter of etiquette; it is a foundation of justice, dignity, and equal access.

Glossary of Terms

Ableism (modified)

A system of assigning value to people based on the ideas of normalcy, productivity, intelligence, and fitness. Rooted in systems like racism, eugenics, and capitalism, ableism reinforces oppression by judging worth through race, language, appearance, and perceived ability. You do not have to be disabled to experience ableism. ⁴¹

Access & Accessibility

Designing and maintaining barrier-free environments, systems, communication methods, and court processes to ensure full participation for all individuals, regardless of disability.

Accommodations

Adjustments or modifications that support individuals with disabilities to participate fully in legal settings. Examples include American Sign Language (ASL) interpreters, captioning, plain language documents, and extended processing time.

Access to Justice

The ability of all people, regardless of disability, identity, or background, to understand and meaningfully participate in legal proceedings, advocate for their rights, and receive fair treatment under the law.

Acquired Disability

A disability that develops after birth due to injury, illness, trauma, or aging. Individuals with acquired disabilities may face unique legal barriers as they navigate systems that are not designed for changing or non-apparent needs.

Americans with Disabilities Act (ADA)

A federal civil rights law that prohibits discrimination based on disability and requires reasonable accommodations in public services, including courts.

Augmentative and Alternative Communication (AAC)

⁴¹ Adapted from working definition by Talila A. Lewis, abolitionist community lawyer, educator, and organizer, updated January 2022, developed in community with disabled Black/negatively racialized folk at <https://www.talilalewis.com/blog/archives/01-2022>

Communication boards, speech-generating devices, and apps are tools and strategies that individuals with spoken language difficulties use.

Bias (Implicit or Explicit)

A pattern of assumptions or judgments that can influence how people perceive and respond to others. In legal settings, bias may affect how disability is interpreted, how credibility is assessed, or how accommodations are evaluated. Ableist bias includes beliefs or expectations that devalue, misinterpret, or exclude people with disabilities based on norms of behavior, communication, or appearance.

Communication Access

Providing all individuals with accessible ways to give and receive information in legal settings includes interpreters, plain language, visual aids, and digital supports.

Congenital Disability

A disability that is present at or before birth. Understanding congenital disabilities in legal contexts requires recognizing that individuals may have long-established ways of functioning that differ from normative expectations.

Competency (Legal Competency)

Refers to a person's ability to understand and participate in legal proceedings. Competency should be evaluated based on function and the effectiveness of accommodations, not disability status.

Credibility (Witness Credibility)

Assumptions about a person's communication style, behavior, or disability can unfairly impact their perceived credibility. Courts must assess credibility without bias or stigma.

Disability

Disability is a broad term that includes physical, sensory, cognitive, mental health, intellectual, neurological, and other conditions that may affect a person's ability to engage with the environment. Not all disabilities are visible, and not all individuals identify as disabled.

Disability Justice

A framework that centers the experiences of disabled people, especially those who are also marginalized by race, gender, or class. It goes beyond legal rights to address systemic inequality and promote collective access and liberation.⁴²

Functional Model of Disability

It focuses on what a person can do with appropriate supports and accommodations instead of defining them by their impairments. In court, this means evaluating whether someone can participate if provided with the right tools, not assuming incapacity based on diagnosis.

Hidden (or Non-Apparent) Disabilities

Disabilities that are not immediately visible, such as chronic pain, autism, PTSD, ADHD, mental health disabilities, or hearing loss. These can be easily misunderstood in legal settings, especially when individuals do not disclose or are undiagnosed.

Identity-First Language

Language that places the disability before the person (e.g., “disabled person”). Some individuals and communities prefer this because it reflects disability as an essential part of their identity.

Legal Competency

A legal determination of whether a person understands and can participate in legal proceedings. Courts should not assume incompetence based solely on disability but should explore accommodations enabling participation.

Limited English Proficiency (LEP)

Refers to individuals who do not speak English as their primary language and may have limited ability to read, speak, or understand English. Legal systems must ensure language access through interpretation and translated materials.

Medical Model of Disability

This model frames disability as an individual problem—something to be treated, fixed,

⁴² Adapted from Sins Invalid’s definition of Disability Justice at <https://www.sinsinvalid.org/news-1/2020/6/16/what-is-disability-justice>.

or cured. It often leads to exclusion, unnecessary competency findings, or assumptions about capacity.

Neurodivergent / Neurodivergence

There is natural variation in how people think, learn, and process information, such as autism, Attention Deficit Hyper-Active Disorder, and dyslexia. The law recognizes these differences as part of human diversity, not deficits.

Person-First Language

Language that emphasizes the individual before the disability (e.g., “person with a disability”). Many prefer this format as it avoids defining individuals solely by their disability. Preferences vary and should be respected.

Plain Language

Communication that is clear, concise, and accessible to a broad audience. Plain language avoids legal jargon and helps people understand legal rights and processes, especially important for disabled individuals, those with cognitive disabilities, or LEP individuals.

Rights-Based Model of Disability

This model centers legal protections and the obligation to provide accommodations. It focuses on access, anti-discrimination, and ensuring that people with disabilities can fully participate in all aspects of life, including the legal system.

Sign languages

Sign languages are full of visual languages with grammar and structure, used by Deaf and hard-of-hearing communities worldwide. Examples include American Sign Language (ASL), Black ASL, Spanish Sign Language (LSE), and British Sign Language (BSL). Courts should not assume all signers use ASL; interpreters should be selected based on each individual’s communication needs.

Social Model of Disability

Disability arises from societal and structural barriers, not from the individual’s body or mind. Removing these barriers, rather than “fixing” the person, is key to achieving inclusion and justice.

Stigmatizing Language

Language that reinforces stereotypes, implies inferiority, or portrays disability as a burden. Examples include “confined to a wheelchair,” “suffers from,” or “mentally ill.” Inclusive legal language should avoid these terms and adopt neutral, respectful alternatives.

Trauma-Informed Language

Communication that acknowledges the impact of trauma and seeks to avoid re-traumatizing individuals. This includes using nonjudgmental terms, offering support, and being mindful of tone and process in legal contexts.

Appendix A:

Ethical Obligations for Clear and Inclusive Communication

Legal professionals have an ethical duty to ensure clear and accessible communication in legal settings. The American Bar Association (ABA) Model Rules of Professional Conduct outline these responsibilities:

- **Rule 1.4: Communication**

Lawyers must keep clients informed, respond to reasonable requests for information, and explain legal matters in a way that enables informed decision-making. [ABA Model Rule 1.4](#)

- **Rule 1.1: Competence**

Competent representation includes communicating effectively, particularly when language barriers or disabilities are present. [ABA Model Rule 1.1](#)

- **ABA Formal Opinion 500: Language Access in Lawyer-Client Relationships**

Lawyers are ethically required to address language and communication barriers using interpreters, assistive technologies, or other accessible means to ensure client understanding. [ABA Formal Opinion 500](#)

Washington State Rules and Standards

- **Washington Rules of Professional Conduct (RPC) 1.1 – Competence**

[RPC 1.1 – Competence](#)

This aligns with ABA Model Rule 1.1, which requires competent representation that includes understanding when communication or disability accommodations are necessary.

- **Washington Rules of Professional Conduct (RPC) 1.4 – Communication**

[RPC 1.4 – Communication](#)

Requires timely, appropriate communication that enables clients to participate meaningfully in legal decisions.

- **Washington Court Rules – General Rule (GR) 33:** Requests for Accommodation by Persons with Disabilities [GR 33 \(PDF\)](#)
GR 33 establishes the process by which individuals may request court accommodations. It requires courts to make case-by-case determinations based on barriers, not diagnoses, and limits documentation requests to only what is needed to implement the accommodation.
- **Washington Pattern Jury Instructions – WPIC 4.75:** Completion of Trial—Jurors’ Discussion of Case [WPIC 4.75](#)
Instructs jurors not to judge credibility based on a person’s disability, speech patterns, appearance, or behaviors that may relate to a medical condition or disability.

Appendix B

Example Jury Instruction: Considering Disability in Witness Credibility

You must evaluate the credibility of all witnesses based on the evidence presented and not on assumptions or stereotypes. Some individuals may communicate in ways that differ from typical expectations due to a disability. This may include, but is not limited to:

- Avoiding eye contact
- Speaking in a flat or monotone voice
- Needing a longer time to respond to questions
- Exhibiting repetitive movements or delayed emotional expression.
- Using assistive devices such as communication boards, interpreters, or speech-generating devices

These characteristics are not indicators of dishonesty or unreliability. A witness's manner of communication should not be used to determine whether they are truthful. You are instructed to focus on the content of the testimony and supporting evidence rather than on how it is delivered.

**Courts have limited ability to alter standard jury instructions, particularly in criminal cases where WPIC is required. However, courts should explore providing supplemental explanation, where permitted, to support comprehension for jurors with disabilities. **

Appendix C

Additional Language Considerations

The following words and phrases may unintentionally reinforce outdated, misleading, or stigmatizing assumptions about disabilities. While not legally prohibited, these terms should be avoided, when possible, in favor of more neutral and accurate alternatives.

Avoid Saying	Use Instead
Handicapped	Person with a disability
Deformed	Person with a physical disability
Lame excuse	Weak excuse / Poor justification
Confined to a wheelchair	Wheelchair user
Dumb (when referring to communication)	Non-speaking / Uses alternative communication
Crazy / Insane	Person with a psychiatric disability
Spastic	Uncoordinated / Clumsy
Suffers from [condition]	Has [condition] / Lives with [condition]
Slow learner	Person with a learning disability
Brain Damaged	Person with a brain Injury
Retarded/Mentally Retarded	Person with an intellectual disability
Tone deaf	Insensitive/unaware
Falling on deaf ears	Ignored/not being considered
Turn a blind eye	Ignore/overlook

Avoid Saying	Use Instead
Blind to	Unaware of/overlooking
Crippled/Crippling	Person with a mobility-related disability/Affected by

Bibliography

1. Adapted from Sins Invalid's definition of Disability Justice. Accessed April 2025. <https://www.sinsinvalid.org/news-1/2020/6/16/what-is-disability-justice>.
2. Adapted from the working definition by Talila A. Lewis, abolitionist community lawyer, educator, and organizer. Updated January 2022. <https://www.talilalewis.com/blog/archives/01-2022>
3. American Bar Association. Considering Childhood Trauma in the Juvenile Justice System. https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol_32/november-2013/considering-childhood-trauma-in-the-juvenile-justice-system--gui/
4. American Bar Association. Model Code of Judicial Conduct: Canon 2. https://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct/model_code_of_judicial_conduct_canon_2/
5. American Bar Association, Commission on Disability Rights. Implicit Bias and Disability. https://www.americanbar.org/groups/diversity/disabilityrights/resources/implicit_bias/
6. Britt Hawthorne. "15 Common Phrases That Are Ableist (And What to Say Instead)." Britt Hawthorne Blog. <https://britthawthorne.com/blog/ableist-language/>

7. Chandler, Jennie. "Why Functioning Labels Can Be Harmful for People with Autism." Healthline. Last modified April 28, 2023. <https://www.healthline.com/health/autism/functioning-labels-autism>
8. Colker, Ruth. "Overmedicalization?" Harvard Journal of Law & Gender 46 (2023). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4622766
9. Collaborative Law Institute. "Part I: Advocacy in the Rights-Based Court Model." <https://collaborativelaw.org/part-i-advocacy-in-the-right-based-court-model/>
10. Council of State Governments Justice Center. Just and Well: Rethinking How States Approach Competency to Stand Trial. October 2020. <https://csgjusticecenter.org/wp-content/uploads/2020/10/Just-and-Well27OCT2020.pdf>
11. Dhanda, Amita. "Procedural Accommodation Needed for Persons with Psychosocial or Intellectual Disabilities in Criminal Justice Processes." Health and Human Rights Journal, June 13, 2024. <https://www.hhrjournal.org/2024/06/13/procedural-accommodation-needed-for-persons-with-psychosocial-or-intellectual-disabilities-in-criminal-justice-processes/>
12. Disability Advocacy Resource Unit. "Introducing the Human Rights Model of Disability." <https://daru.org.au/daru-publication/how-we-talk-about-disability-matters/introducing-the-human-rights-model-of-disability/>
13. Disability in Public Health. "Disability-Inclusive Language and Imagery." <https://disabilityinpublichealth.org/1-1/>
14. Disability in Public Health. "Functional Model." <https://disabilityinpublichealth.org/1-1/#:~:text=Functional%20Model%20%E2%80%93%20This%20model%20is,ability%20to%20perform%20functional%20activities.>
15. Early and Periodic Screening, Diagnostic and Treatment (EPSDT). Medicaid.gov. <https://www.medicaid.gov/medicaid/benefits/early-and-periodic-screening-diagnostic-and-treatment/index.html>

16. Francis, Leslie, and Anita Silvers. "Perspectives on the Meaning of 'Disability.'" *AMA Journal of Ethics* 18, no. 10 (October 2016): 1025–1033. <https://journalofethics.ama-assn.org/article/perspectives-meaning-disability/2016-10>
17. Gault Center. Using Developmentally Appropriate Language in Juvenile Court. <https://www.defendyouthrights.org/wp-content/uploads/2014/10/Language-HR-10.8.14.pdf>
18. Iezzoni, Lisa I. "Public Health Goals for Persons with Disabilities: Looking Ahead to 2020." *Disability and Health Journal* 4, no. 3 (2011): 111–115. <https://pubmed.ncbi.nlm.nih.gov/24611927/>
19. Kenny, Lorri. Effects of Disability Labels on Students with Exceptionalities: A Literature Review. West Virginia Department of Education, 2012. https://wvde.us/sites/default/files/2018/01/LitReview_EffectsofDisabilityLabels.pdf
20. Know the ADA. "How the ADA Addresses Invisible Disabilities." <https://know-the-ada.com/how-the-ada-addresses-invisible-disabilities/>
21. Maryland Judiciary. 14 Tips for Ensuring Effective Communication with People with Disabilities. Accessed April 2025. <https://www.courts.state.md.us/sites/default/files/import/legalhelp/pdfs/accessibility/14tips.pdf>
22. National Center for State Courts. Access to Justice for Jurors with Disabilities: Final Report. 2023. https://www.ncsc-jurystudies.org/_data/assets/pdf_file/0014/7340/juror-with-disabilities-final-report.pdf
23. National Council of Juvenile and Family Court Judges. Applying Principles of Adolescent Development in Delinquency Proceedings. <https://www.ncjfcj.org/bench-cards/applying-principles-of-adolescent-development-in-delinquency-proceedings/>

24. National Council of Juvenile and Family Court Judges. Creating Trauma-Informed Courts. <https://www.ncjfcj.org/child-welfare-and-juvenile-law/trauma-informed-courts/>
25. National Council of Juvenile and Family Court Judges. Seeing What's Underneath: A Resource for Understanding Behavior and Using Language in Juvenile Court. <https://www.ncjfcj.org/publications/seeing-whats-underneath-a-resource-for-understanding-behavior-and-using-language-in-juvenile-court/>
26. National Council on Disability. Effective Communications for People with Disabilities: Before, During, and After Emergencies. February 10, 2014. <https://www.ncd.gov/report/effective-communications-for-people-with-disabilities-before-during-and-after-emergencies/>
27. National Education Association. Disproportionality in Special Education Fueled by Implicit Bias. <https://www.nea.org/nea-today/all-news-articles/disproportionality-special-education-fueled-implicit-bias>
28. Samuels, Allison K. "Disability as an Open Category: Thinking Toward Anti-Ableist Legal Theory." University of Pennsylvania Law Review 170, no. 3 (2022): 741800. https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=9791&context=penn_law_review
29. Schwartz, Ira M. "Delinquency and the Medical Model: Arguments Against Medicalization." National Criminal Justice Reference Service. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/delinquency-and-medical-model-arguments-against-medicalization>
30. University of Kansas. "Person-First vs. Identity-First Language." <https://educationonline.ku.edu/community/person-first-vs-identity-first-language>
31. U.S. Code. Americans with Disabilities Act of 1990, 42 U.S.C. § 12101. <https://www.law.cornell.edu/uscode/text/42/12101>
32. U.S. Department of Health and Human Services, Office for Civil Rights. Your Rights Under Section 504 of the Rehabilitation Act. Revised June

2006. <https://www.hhs.gov/sites/default/files/ocr/civilrights/resources/factsheets/504.pdf>
33. U.S. Department of Justice. ADA Requirements: Effective Communication. <https://www.ada.gov/resources/effective-communication/>
34. U.S. Department of Justice, Office of Justice Programs. Language Access Plan. Revised January 2025. <https://www.ojp.gov/ojp-language-access-plan>
35. Vera Institute of Justice. How Safe Are Americans with Disabilities? February 2021. <https://vera-institute.files.svdcdn.com/production/downloads/publications/How-safe-are-americans-with-disabilities-web.pdf>
36. Washington Courts. General Rule (GR) 33: Requests for Accommodation by Persons with Disabilities. https://www.courts.wa.gov/court_rules/pdf/GR/GA_GR_33_00.pdf
37. Washington Pattern Jury Instructions: WPIC 4.75 – Completion of Trial—Jurors’ Discussion of Case. Washington Courts. <https://govt.westlaw.com/wcrji/Document/I0938b402a75611dd8931e514b9d4bd12>
38. Washington State Bar Association. Access Guide for Washington Administrative Proceedings. 2011. https://www.wsba.org/docs/default-source/legal-community/sections/adm/resources/adm_resources_access_guide_for_wa_administrative_proceedings_2011.pdf
39. Washington State Bar Association. Rules of Professional Conduct (RPC). <https://www.wsba.org/for-legal-professionals/legal-community/ethics/rules-of-professional-conduct>
40. What Is Plain Language? <https://www.plainlanguage.gov/about/definitions/>
41. World Institute on Disability. “Moving from Disability Rights to Disability Justice.” <https://wid.org/moving-from-disability-rights-to-disability-justice/>

Additional Resources for Legal Professionals

For further guidance on inclusive legal language, disability rights, and courtroom accessibility, the following organizations and websites offer reliable information, policy recommendations, and training materials.

Legal and Disability Justice Organizations

- **American Bar Association (ABA) – Commission on Disability Rights**
<https://www.americanbar.org/groups/diversity/disabilityrights/>
Provides legal policy guidance on disability-related laws, court accommodations, and accessibility best practices.
- **National Center for Access to Justice (NCAJ)**
<https://ncaj.org/>
Develops tools and research to improve justice system accessibility, including court accommodations and legal language practices.
- **ADA National Network**
<https://adata.org/>
Offers detailed guidance on ADA regulations regarding court accessibility, reasonable accommodations, and disability inclusion.
- **National Disability Rights Network (NDRN)**
<https://www.ndrn.org/>
Advocates for the rights of individuals with disabilities across legal, educational, and public settings, including court systems.

Language & Accessibility Guides

- **Disability Language Style Guide – National Center on Disability and Journalism (NCDJ)**
<https://ncdj.org/style-guide/>
A comprehensive guide on respectful and current disability-related terminology.
- **PlainLanguage.gov – Legal Writing Best Practices**
<https://www.plainlanguage.gov/>
U.S. government sites focus on promoting plain language in legal, public, and administrative documents.

Judicial and Courtroom Accessibility Resources

- **U.S. Courts – Accessibility & Accommodations**

<https://www.uscourts.gov/services-forms/accessibility>

Offers federal court guidance on ADA compliance, interpreter services, and accommodations.

- **National Judicial College – Best Practices for Accessibility**

<https://www.judges.org/>

Training and resources for judges on procedural fairness and courtroom inclusion.

- **Washington State – Ensuring Equal Access for People with Disabilities**

<https://www.courts.wa.gov/>

State court resources and training to support disability access, including GR 33 and state-specific guidance.