
New Hampshire Secretary of State's Response to ADA accommodation request12 messages

Orville Fitch <Orville.Fitch@sos.nh.gov>

Tue, Mar 19, 2024 at 5:43 AM

To: "hi@tylerpresident.com" <hi@tylerpresident.com>

This response is also being sent by US Mail.

March 19, 2024

Mathew Tyler

Dear Mathew Tyler:

The New Hampshire Secretary of State's Office has received your communication dated January 28, 2024, requesting ADA reasonable accommodations. From the information you provided, it is not clear whether accommodation is needed or warranted under the law.

First, your letter states: "Name as it will appear on the write-in list: Mathew Tyler." New Hampshire law does not establish a "write-in" list and there are no state law requirements for a person who seeks write-in votes. Voters are entitled to write in the person of their choosing for any office on a New Hampshire ballot and each write-in vote is counted without regard to the qualifications of the individual written in to hold the office if elected. In the event a write-in candidate receives sufficient votes to win the election, the process of verifying eligibility, if any, would occur after the election. Therefore, even if you are eligible for accommodation, if you plan to seek election by write-in votes, no accommodation is warranted given there are no requirements to waive.

Second, to the extent that you seek to have your name printed on the general election ballot using the nomination paper process the deadline for filing a declaration of intent is Friday June 14, 2024. The filing period starts on Wednesday June 5, 2024. See RSA 655:17-b. "At the time of filing declarations of intent, each candidate for president who seeks nomination by nomination papers shall pay to the secretary of state a single fee of \$250 for himself and his vice-presidential candidate." RSA 655:19-a. To the extent you seek an exemption from this filing fee due to indigence, you are required to provide proof of your indigence.

For a person seeking ballot access through nominating papers, New Hampshire law does not require the candidate himself or herself to gather the required nominating papers. The purpose of the law requiring the gathering of nominating papers is to show "a significant modicum of support." *Libertarian Party N.H. v. State* 154 N.H. 376 (2006).

Inherent in having a significant modicum of support is having sufficient supporters to assist in gathering voter signatures on nominating papers. Furthermore, a candidate and his or her supporters can request voters to sign a nominating paper by phone, mail, or e-mail communications. New Hampshire law does not regulate or restrict paid nomination paper signature gatherers. While the voter must sign the papers, ink on paper, and return the original to the candidate, there is no requirement in New Hampshire law that the gathering of signed nominating papers be done in person.

We do not understand the requirement that a person submit nominating papers signed by 3,000 registered voters, 1,500 from each United States congressional district, to impose any physical requirement on the prospective candidate. RSA 655:42.

If understanding these New Hampshire laws, you still believe our law imposes any requirements on you personally, such that an assessment of an ADA accommodation request is appropriate, please provide additional information supporting that position. Please provide information that would help us understand how your disability specifically prevents you from having nominating paper signatures gathered on your behalf, or otherwise complying with the requirements described above. Please provide any documentation you can from a medical professional explaining how your disability specifically prevents compliance with New Hampshire law. We will consider all the information you provide.



Orville B. "Bud" Fitch II

General Counsel, Assistant Secretary of State

New Hampshire Secretary of State

State House Room 204

107 N. Main St.

Concord, New Hampshire 03301

(603) 271-5335

www.sos.nh.gov bud.fitch@sos.nh.gov



**Mathew Tyler ADA Accomodation Request SOS response.pdf**

350K

Mathew Tyler <*****>

Wed, Mar 20, 2024 at 5:30 AM

To: Orville Fitch <Orville.Fitch@sos.nh.gov>

Orville B. "Bud" Fitch II,

My apologies for my typographical error, I wish to be listed on the ballot as an unaffiliated (independent) candidate in the 2024 general election.

Although according to the Department of Justice via ada.gov, "Public entities may not ask about the nature or extent of an individual's disability,"(1) I have central core disease, ADHD, and other medical conditions; I am a qualified individual with a disability, 42 U.S.C. § 12131(2); 42 U.S.C. § 12102(1)(A), (B). Whilst I think that making the statement under penalty of perjury should be sufficient, I have attached a doctor's note excusing me from jury duty in the past.

I request reasonable accommodations through an exception to practices, policies, and procedures to any and all physical requirements as well as time related requirements imposed by the State including without limitation to: the solicitation of signatures, collection of signatures, submission of signatures, start times, and deadlines for filing for ballot access as an unaffiliated (independent) US presidential candidate in the 2024 general election. 28 C.F.R. § 35.130(d); 28 C.F.R. § 35.149; 28 C.F.R. § 35.160(b), (c); 28 C.F.R. § 35.130(b)(1)-(3), (6)-(8); 42 U.S.C. § 1983; 42 U.S.C. § 12101(b), 42 U.S.C. § 12103(1)(D), 42 U.S.C. § 12182(b)(1)(A)(i)-(iii), (B)-(E); 42 U.S.C. § 12182(b)(2)(A)(i)-(iii). If it's a matter of public record/procedure, my ADA request could be certified (by the State) and kept on file in lieu of the signatures required.

As needs associated with disabilities are broad and unique to each person, requiring case by case reasonable accommodations which is why the ADA is so broad, reaffirmed by the ADAAA. An ADA request for reasonable accommodations is not a matter for the State to determine whether it meets my needs or not, the State is obligated to provide them unless the State can demonstrate and providing them would cause undue hardship to the State or that honoring them would fundamentally alter the nature of the services. The Department of Justice provides the following(1) pertaining to both;

1. "The decision that an action would result in an undue burden must be made by a high level official, no lower than a Department head, having budgetary authority and responsibility for making spending decisions, after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in an undue burden, a public entity must take any other action that would not result in an undue burden but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity."
2. There are some situations where it simply is not possible to integrate people with disabilities without fundamentally altering the nature of a program, service, or activity. For example, moving a beach volleyball program into a gymnasium, so a player who uses a wheelchair can participate on a flat surface without sand, would "fundamentally alter" the nature of the game. The ADA does not require changes of this nature.

If the State does not honor my request for reasonable accommodations and the State does not demonstrate how honoring my request would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations, the State will be committing a hate crime (18 U.S.C. § 249) against me by discriminating against me for my disability in my enjoyment of federally protected activities (18 U.S.C. § 245) which will also violate my civil rights; due process and equal protection (18 U.S.C. § 241 and 18 U.S.C. § 242)

1. 18 U.S.C. § 245(b)(1)(A) Interfering with my ability to qualify and campaign as a candidate for elective office in any primary, special, or general election; and,
2. 18 U.S.C. § 245(b)(1)(B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States; and,
3. 18 U.S.C. § 245(b)(1)(E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance

"The ADA is meant to ensure that people with disabilities can fully participate in all aspects of civic life. Under Title II, all state/local governments must follow the ADA regardless of their size." (2)

"The Americans with Disabilities Act (ADA) is a federal civil rights law that provides protections to people with disabilities to ensure that they are treated equally in all aspects of life. Title II of the ADA requires state and local governments ("public entities") to ensure that people with disabilities have a full and equal opportunity to vote. The ADA's provisions apply to all aspects of voting," and "The ADA's provisions apply to all aspects of voting," (3)

"the fact that a person with a disability is able to walk for some distance does not necessarily contradict a verbal assurance – many people with mobility disabilities can walk, but need their mobility device for longer distances or uneven terrain. This is particularly true for people who lack stamina, have poor balance, or use mobility devices because of respiratory, cardiac, or neurological disabilities." (1)

ADA stuff from the DOJ and ADA websites for the subsequent quotes is publicly accessible on my Google drive via the subsequent link. Please let me know if you have a problem accessing the files and I can email them to you; https://drive.google.com/drive/folders/1xIOeKkem7sbwQ94vbLB01vWXYJn-2U6U?usp=drive_link

"...when a state law directly conflicts with the ADA, the state law must be interpreted in a way that complies with the ADA" (American-Nurses-Assoc.-v.-ODonnell,-California-Superintendent-of-Schools-United-States-Amicus-Brief.pdf)

"the ADA requires Wisconsin to make reasonable modifications in policies, practices, and procedures when the modifications are necessary to avoid discrimination on the basis of disability. "(statement_of_interest-carey_v_wisconsin_election_commission.pdf)

Qualification standards and selection criteria that screen out people based on their disabilities that are not job-related or consistent with business necessity violate the ADA (complaint_-_united_states_v_alabama_department_of_transportation.pdf)

"Under Title II of the ADA, no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a). This means that the County must give individuals with disabilities an equal opportunity to participate in and benefit from any service provided to others. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(1). These legal requirements include providing equal access to the County's website and the public content posted there." (letter_of_findings-upton_county_tx_election_website_accessibility_1.pdf)

"...to avoid discrimination, a public entity must reasonably modify its policies, procedures, or practices when necessary to avoid disability discrimination, unless it can show that the modifications would fundamentally alter the nature of the service, program, or activity." (statement_of_interest-in_re_georgia_sb_202.pdf)

"...under the ADA, voters with disabilities must have an equal opportunity to vote ... this equal opportunity requirement is separate from the requirement that public entities make reasonable modifications" (statement_of_interest-in_re_georgia_sb_202.pdf)

"The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. [...] Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized."; Reynolds v. Sims, 377 U.S. 533, 555 (1964)

"Although [plaintiffs] were ultimately able to cast their vote with the fortuitous assistance of others, the purpose of the Rehabilitation Act is 'to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society'.... The right to vote should not be contingent on the happenstance that others are available to help." Nat'l Fed'n of the Blind v. Lamone, 813 F.3d 494, 506-7 (4th Cir. 2016)

"Voting is a quintessential public activity. In enacting the ADA, Congress explicitly found that " 'individuals with disabilities ... have been ... relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals.' " *Tennessee v. Lane*, 541 U.S. 509, 516, 124 S.Ct. 1978, 158 L.Ed.2d 820 (2004) (quoting 42 U.S.C. § 12101(a)(7)). Ensuring that disabled individuals are afforded an opportunity to participate in voting that is equal to that afforded others, 28 C.F.R. § 35.130, helps ensure that those individuals are never relegated to a position of political powerlessness." *Nat'l Fed'n of the Blind v. Lamone*, 813 F.3d 494, 507 (4th Cir. 2016)

Pertaining to fees, RSA 655:19-a;

1. What kind of proof is needed beyond my statement under penalty of perjury to establish my indigence?
2. I don't believe that RSA 655:19-a is applicable as I am seeking an exception to the nomination papers requirement
3. An elected (or appointed) state official requiring additional monies for the official to do duties that are part of their job doesn't seem legal to me; e.g., double taxation.

Non ADA cases:

1. *Trump v. Anderson*, No. 23-719, 601 U.S. (2024) establishes (1) States lack the power to disqualify a candidate for federal office and, (2) that not including a candidate on the ballot, even for a primary would be disqualifying the candidate; "It would be incongruous to read this particular Amendment as granting the States the power — silently no less — to disqualify a candidate for federal office"
2. [Arbitrary and capricious] candidate requirements are not in line with founding, quintessential principles of America, historical tradition, or the rights enshrined by the U.S. Constitution; "[t]he very enumeration of the right takes out of the hands of government—even the Third Branch of Government—the power to decide on a case-by-case basis whether the right is really worth insisting upon." *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1
3. [heavy] burdens on minor parties seeking to be placed on the ballot for presidential electors violates the Equal protection clause, *Williams v. Rhodes*, 393 U.S. 23 (1968)
4. Fees imposed by the State violate my equal protection rights (*Harper v. Virginia State Board of Elections*, 383 U.S. 663 [1966]), due process, and the 24th amendment to the U.S. Constitution

-Mathew Tyler

- (1) <https://www.ada.gov/resources/title-ii-primer/>
- (2) <https://www.ada.gov/topics/title-ii/>
- (3) <https://www.ada.gov/resources/polling-places-checklist>

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Mathew Tyler <*****>

To: paula.rubin@usdoj.gov, cheryl.rost@usdoj.gov

Fri, Mar 22, 2024 at 8:36 AM

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7552K

Mail Delivery Subsystem <mailer-daemon@googlemail.com>

Fri, Mar 22, 2024 at 8:38 AM

To: *****



Address not found

Your message wasn't delivered to **paula.rubin@usdoj.gov** because the address couldn't be found, or is unable to receive mail.

The response from the remote server was:

550 5.1.1 ... User Unknown

Final-Recipient: rfc822; paula.rubin@usdoj.gov

Action: failed

Status: 5.1.1

Remote-MTA: dns; mx-da6.usdoj.gov. (149.101.180.145, the server for the domain usdoj.gov.)

Diagnostic-Code: smtp; 550 5.1.1 <paula.rubin@usdoj.gov>... User Unknown

Last-Attempt-Date: Fri, 22 Mar 2024 08:38:07 -0700 (PDT)

----- Forwarded message -----

From: Mathew Tyler <*****>

To: paula.rubin@usdoj.gov, cheryl.rost@usdoj.gov

Cc:

Bcc:

Date: Fri, 22 Mar 2024 08:36:16 -0700

Subject: Fwd: New Hampshire Secretary of State's Response to ADA accommodation request

----- Message truncated -----

Mathew Tyler <*****>

To: humanrights@hrc.nh.gov

Fri, Mar 22, 2024 at 10:20 PM

----- Forwarded message -----

From: **Mathew Tyler** <*****>

Date: Wed, Mar 20, 2024 at 5:30 AM

Subject: Re: New Hampshire Secretary of State's Response to ADA accommodation request

To: Orville Fitch <Orville.Fitch@sos.nh.gov>

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Mathew Tyler <*****>

Fri, Mar 22, 2024 at 10:56 PM

To: doj.civilrights@doj.nh.gov

----- Forwarded message -----

From: **Mathew Tyler** <*****>

Date: Wed, Mar 20, 2024 at 5:30 AM

Subject: Re: New Hampshire Secretary of State's Response to ADA accommodation request

To: Orville Fitch <Orville.Fitch@sos.nh.gov>

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Mathew Tyler <*****>

Fri, Mar 22, 2024 at 10:58 PM

To: nhba.drc@nhbar.org

----- Forwarded message -----

From: **Mathew Tyler** <*****>

Date: Wed, Mar 20, 2024 at 5:30 AM

Subject: Re: New Hampshire Secretary of State's Response to ADA accommodation request

To: Orville Fitch <Orville.Fitch@sos.nh.gov>

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Mathew Tyler <*****>
To: ADA.complaint@usdoj.gov

Mon, Mar 25, 2024 at 11:28 AM

----- Forwarded message -----

From: **Mathew Tyler** <*****>
Date: Wed, Mar 20, 2024 at 5:30 AM
Subject: Re: New Hampshire Secretary of State's Response to ADA accommodation request
To: Orville Fitch <Orville.Fitch@sos.nh.gov>

[Quoted text hidden]



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7552K

Mail Delivery Subsystem <mailer-daemon@googlemail.com>
To: *****

Mon, Mar 25, 2024 at 11:30 AM



Address not found

Your message wasn't delivered to **ADA.complaint@usdoj.gov** because the address couldn't be found, or is unable to receive mail.

The response from the remote server was:

550 5.1.1 ... User Unknown

Final-Recipient: rfc822; ADA.complaint@usdoj.gov

Action: failed

Status: 5.1.1

Remote-MTA: dns; mx-jdcw.usdoj.gov. (149.101.25.25, the server for the domain usdoj.gov.)Diagnostic-Code: smtp; 550 5.1.1 <ADA.complaint@usdoj.gov>... User Unknown

Last-Attempt-Date: Mon, 25 Mar 2024 11:30:08 -0700 (PDT)

----- Forwarded message -----

From: Mathew Tyler <*****>

To: ADA.complaint@usdoj.gov

Cc:

Bcc:

Date: Mon, 25 Mar 2024 11:28:19 -0700

Subject: Fwd: New Hampshire Secretary of State's Response to ADA accommodation request

----- Message truncated -----

Mathew Tyler <*****>

Mon, Apr 15, 2024 at 11:57 AM

To: AttorneyGeneral@doj.nh.gov

Violation of civil rights, disability discrimination, by New Hampshire. 1 of 3. Request for criminal prosecution and promulgation of federal policy

----- Forwarded message -----

From: **Mathew Tyler** <*****>

Date: Wed, Mar 20, 2024 at 5:30 AM

Subject: Re: New Hampshire Secretary of State's Response to ADA accommodation request

To: Orville Fitch <Orville.Fitch@sos.nh.gov>

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Mathew Tyler <*****>

Mon, Apr 15, 2024 at 12:03 PM

To: electionlaw@doj.nh.gov

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Conley, Matthew <Matthew.G.Conley@doj.nh.gov>

Thu, Apr 18, 2024 at 2:13 PM

To: Mathew Tyler <*****>, DOJ-Election Law <electionlaw@doj.nh.gov>

Dear Mr. Tyler:

On April 15, 2024, you forwarded an e-mail to the Election Law Unit that appeared to be a complaint regarding your request to the Secretary of State's Office for an ADA accommodation related to the ballot access requirements set forth in RSA chapter 655.

The Election Law Unit only has authority to enforce violations of this State's election laws, which are codified in RSA chapters 652 to 671. It is not a violation of this State's election laws for the Secretary of State's Office to require all persons seeking to have their name included as a candidate for the Office of the President on ballots for the 2024 State General Election to comply with RSA chapter 655. The Election Law Unit does not investigate or enforce alleged violations of Federal law, including the ADA.

Accordingly, the Election Law Unit will not open an investigation based on your April 15, 2024, e-mail.

Sincerely,

Matthew G. Conley

Assistant Attorney General

Attorney General's Office

1 Granite Place

Concord, NH 03301-6397

Phone: (603) 271-6765

STATEMENT OF CONFIDENTIALITY

The information contained in this electronic message and any attachments to this message may contain confidential or privileged information and is intended for the exclusive use of the intended recipient. Please notify the Attorney General's Office immediately at (603) 271-3650 or reply to justice@doj.nh.gov if you are not the intended recipient and destroy all copies of this electronic message and any attachments. Thank you.

From: Mathew Tyler <*****>

Sent: Monday, April 15, 2024 3:03 PM

To: DOJ-Election Law <electionlaw@doj.nh.gov>

Subject: Fwd: New Hampshire Secretary of State's Response to ADA accommodation request

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

----- Forwarded message -----

From: **Mathew Tyler** <*****>

Date: Mon, Apr 15, 2024 at 11:57 AM

Subject: Fwd: New Hampshire Secretary of State's Response to ADA accommodation request

To: <AttorneyGeneral@doj.nh.gov>

Violation of civil rights, disability discrimination, by New Hampshire. 1 of 3. Request for criminal prosecution and promulgation of federal policy

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From: **Mathew Tyler** <*****>

Date: Wed, Mar 20, 2024 at 5:30 AM

Subject: Re: New Hampshire Secretary of State's Response to ADA accommodation request

To: Orville Fitch <Orville.Fitch@sos.nh.gov>

Orville B. "Bud" Fitch II,

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I request reasonable accommodations through an exception to practices, policies, and procedures to any and all physical requirements as well as time related requirements imposed by the State including without limitation to: the solicitation of signatures, collection of signatures, submission of signatures, start times, and deadlines for filing for ballot access as an unaffiliated (independent) US presidential candidate in the 2024 general election. 28 C.F.R. § 35.130(d); 28 C.F.R. § 35.149; 28 C.F.R. § 35.160(b), (c); 28 C.F.R. § 35.130(b)(1)-(3), (6)-(8); 42 U.S.C. § 1983; 42 U.S.C. § 12101(b), 42 U.S.C. § 12103(1)(D), 42 U.S.C. § 12182(b)(1)(A)(i)-(iii), (B)-(E); 42 U.S.C. § 12182(b)(2)(A)(i)-(iii). If it's a matter of public record/procedure, my ADA request could be certified (by the State) and kept on file in lieu of the signatures required.

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1. 18 U.S.C. § 245(b)(1)(A) Interfering with my ability to qualify and campaign as a candidate for elective office in any primary, special, or general election; and,
2. 18 U.S.C. § 245(b)(1)(B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States; and,
3. 18 U.S.C. § 245(b)(1)(E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance

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