March 1, 2024 Request for Accommodation

21 messages

Tekin, Jill <Jill.Tekin@doj.nh.gov> Thu, Mar 21, 2024 at 11:48 AM
To: "**********" <**********>
Cc: "O'Donnell, Brendan" <Brendan.A.Odonnell@doj.nh.gov>

Good afternoon,

Please see the attached, regarding the above.

Thank you.

Sincerely,

Jill Tekin

Investigative Paralegal

Civil Bureau

Attorney General's Office

1 Granite Place - South

Concord, NH 03301-6397

Phone No: (603) 271-1264

Fax No: (603) 271-2110

Jill.Tekin@doj.nh.gov

Response re Accomodation Request 03.21.2024.pdf
411K

Mathew Tyler <**********> Thu, Mar 21, 2024 at 5:43 PM
To: "Tekin, Jill" <Jill.Tekin@doj.nh.gov>
Cc: "**********" <**********>, "O'Donnell, Brendan" <Brendan.A.Odonnell@doj.nh.gov>

Ms. Tekin,

In terms of the ADA, State laws are as inconsequential as they are irrelevant as conflicting State laws are subordinate and thus precluded by the "Supremacy Clause" to the US Constitution (Article 6, clause 2 to the US Constitution [1]).

As you didn't seem to receive or read my email to Orville B. "Bud" Fitch II, unless Honest services fraud (18 U.S.C. § 1346) and/or obstruction of justice? I have attached it. Please read it and what is cited. My response starts on page three of the attached PDF. In my response I provide multiple Department of Justice guidelines for interpreting ADA requests for reasonable accommodations, federal laws which supersede and preclude conflicting state law, cases for ADA and non ADA matters:

"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)

I have also attached a letter from my physician for me being excused from jury duty. I have made the statement under penalty of perjury too. How much more must I demonstrate that I am a qualified individual with a disability to you? When the Department of Justice establishes, "Public entities may not ask about the nature or extent of an individual's disability,"(2)

The Department of Justice via ADA.gov provides an information line(3) for you;

ADA Information Line
Talk to us at 800-514-0301 | 1-833-610-1264 (TTY)
M, W, F: 9:30am - 12pm and 3pm - 5:30pm ET
Tu: 12:30pm - 5:30pm ET, Th: 2:30pm - 5:30pm ET

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

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

Here are the laws I've cited in my previous email so that maybe you will actually read them;

42 U.S.C. § 12131(2)
42 U.S.C. § 12102(1)(A)
42 U.S.C. § 12102(1)(B)

28 C.F.R. § 35.130(d)
28 C.F.R. § 35.149
28 C.F.R. § 35.160(b)
28 C.F.R. § 35.160(c)
28 C.F.R. § 35.130(b)(1)
28 C.F.R. § 35.130(b)(2)
28 C.F.R. § 35.130(b)(3)
28 C.F.R. § 35.130(b)(6)
28 C.F.R. § 35.130(b)(7)
28 C.F.R. § 35.130(b)(8)
42 U.S.C. § 1983

42 U.S.C. § 12101(a)(7)
42 U.S.C. § 12101(b)
42 U.S.C. § 12103(1)(D)
42 U.S.C. § 12182(b)(1)(A)(i)
42 U.S.C. § 12182(b)(1)(A)(ii)
42 U.S.C. § 12182(b)(1)(A)(iii)
42 U.S.C. § 12182(b)(1)(B)
42 U.S.C. § 12182(b)(1)(C)
42 U.S.C. § 12182(b)(1)(D)
42 U.S.C. § 12182(b)(1)(E)
42 U.S.C. § 12182(b)(2)(A)(i)
42 U.S.C. § 12182(b)(2)(A)(ii)
42 U.S.C. § 12182(b)(2)(A)(iii)

18 U.S.C. § 249
18 U.S.C. § 245
18 U.S.C. § 245(b)(1)(A)
18 U.S.C. § 245(b)(1)(B)
18 U.S.C. § 245(b)(1)(E)

18 U.S.C. § 241
18 U.S.C. § 242

42 U.S.C. § 12132
28 C.F.R. § 35.130(a)

42 U.S.C. § 12132
28 C.F.R. § 35.130(b)(1)

-Mathew Tyler

[1] https://en.wikipedia.org/wiki/Supremacy_Clause
(2) https://www.ada.gov/resources/title-ii-primer/
(3) https://www.ada.gov/infoline/
[Quoted text hidden]

2 attachments

scanned-0139.png
7552K

Gmail - New Hampshire Secretary of State's Response to ADA accommodation request.pdf
221K

O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> Fri, Mar 22, 2024 at 5:58 AM
To: Mathew Tyler <**********>
Cc: DOJ-Election Law <electionlaw@doj.nh.gov>

Good morning Mr. Tyler,

I read your prior e-mails to Attorney Fitch. I also reviewed the laws that you cited. None of that supports your argument that you are entitled to an accommodation from the signature requirement of the nomination papers process.

As I explained in my letter to you, no court has recognized the appropriateness of the accommodation you seek, and multiple courts have rejected claims that a candidate-plaintiff was entitled to an accommodation from signature requirements for access to ballots as a candidate.

Accordingly, if you want to have your name placed on the State General Election ballot through the nominating papers process, you and all of the campaign workers and volunteers acting on your behalf must comply with all statutory requirements.

Sincerely,

Brendan

Brendan A. O'Donnell

Election Law Unit Chief

New Hampshire Department of Justice

1 Granite Place, Concord, NH 03301

brendan.a.odonnell@doj.nh.gov

Telephone: 603-271-3658

From: Mathew Tyler <**********>
Sent: Thursday, March 21, 2024 8:43 PM
To: Tekin, Jill <Jill.Tekin@doj.nh.gov>
Cc: **********; O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
Subject: Re: March 1, 2024 Request for Accommodation

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3. 18 U.S.C. § 245(b)(1)(E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance

[Quoted text hidden]
[Quoted text hidden]
[Quoted text hidden]

Mathew Tyler <**********> Fri, Mar 22, 2024 at 8:27 AM

To: "O'Donnell, Brendan" <Brendan.A.Odonnell@doj.nh.gov>
Cc: Mathew Tyler <**********>, DOJ-Election Law <electionlaw@doj.nh.gov>

Mr. O'Donnell,

How do you figure that the cited laws don't entitle me, a qualified individual with a disability to accommodations? 28 C.F.R. § 35.130(7)(i). Please explain.

1. The State is excluding me from participation, 28 CFR § 35.130(a); and,
2. The State is failing to furnish auxiliary aids/services as required by 28 C.F.R. § 35.160(b)(1); and,
3. The services are not being offered in the "...most integrated setting appropriate to the ***needs of the individual***", 42 U.S.C. § 12182(b)(1)(B); and,
4. The administration is being done in a manner that discriminates on the basis of disability and perpetuates disability discrimination, 42 U.S.C. § 12182(b)(1)(D); and,
5. The imposition of eligibility is screening out a qualified individual with a disability, 42 U.S.C. § 12182(b)(2)(A)(i); and,
6. The State is failing to take steps that may be necessary to "...ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services," 42 U.S.C. § 12182(b)(2)(A)(iii); and,
7. "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)
8. "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)

Non ADA cases that establish the requirement is unconstitutional;

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
5. "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)

What's more, the State of NH has still failed to show that my request would cause an undue burden or fundamentally alter anything as required by 42 U.S.C. § 12182(b)(2)(A)(ii) and 42 U.S.C. § 12182(b)(2)(A)(iii); as such the State is depriving me of due process and equal protection rights. The Department of Justice offers the following 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."

-Mathew Tyler
[Quoted text hidden]

Mathew Tyler <**********> Fri, Mar 22, 2024 at 8:35 AM
To: paula.rubin@usdoj.gov, cheryl.rost@usdoj.gov

[Quoted text hidden]

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Fri, Mar 22, 2024 at 8:37 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:

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550 5.1.1 ... User Unknown
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Final-Recipient: rfc822; paula.rubin@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 <paula.rubin@usdoj.gov>... User Unknown
Last-Attempt-Date: Fri, 22 Mar 2024 08:37:27 -0700 (PDT)

---------- Forwarded message ----------
From: Mathew Tyler <**********>

To: paula.rubin@usdoj.gov, cheryl.rost@usdoj.gov
Cc:
Bcc:
Date: Fri, 22 Mar 2024 08:35:47 -0700
Subject: Fwd: March 1, 2024 Request for Accommodation
----- Message truncated -----

Mathew Tyler <**********> Fri, Mar 22, 2024 at 10:27 PM
To: humanrights@hrc.nh.gov

---------- Forwarded message ---------
From: **Mathew Tyler** <**********>
Date: Fri, Mar 22, 2024 at 8:27 AM
Subject: Re: March 1, 2024 Request for Accommodation
To: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
Cc: Mathew Tyler <**********>, DOJ-Election Law <electionlaw@doj.nh.gov>

[Quoted text hidden]

Mathew Tyler <**********> Fri, Mar 22, 2024 at 10:56 PM
To: doj.civilrights@doj.nh.gov

---------- Forwarded message ---------
From: **Mathew Tyler** <**********>
Date: Fri, Mar 22, 2024 at 8:27 AM
Subject: Re: March 1, 2024 Request for Accommodation
To: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
Cc: Mathew Tyler <**********>, DOJ-Election Law <electionlaw@doj.nh.gov>

[Quoted text hidden]

Mathew Tyler <**********> Fri, Mar 22, 2024 at 10:59 PM
To: nhba.drc@nhbar.org

---------- Forwarded message ---------
From: **Mathew Tyler** <**********>
Date: Fri, Mar 22, 2024 at 8:27 AM
Subject: Re: March 1, 2024 Request for Accommodation
To: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
Cc: Mathew Tyler <**********>, DOJ-Election Law <electionlaw@doj.nh.gov>

[Quoted text hidden]

HRC: Human Rights Commission <humanrights@hrc.nh.gov> Mon, Mar 25, 2024 at 5:23 AM
To: Mathew Tyler <**********>

Good morning Mr. Tyler,

Thank you for contacting the NH Commission for Human Rights and for sharing the facts below.

Please see the Commission's Intake Questionnaire & Summary Sheet (attached) that will give you information on our process and our jurisdiction. *Please note that the Commission generally does not have jurisdiction over election related processes and issues*. However, if you are interested in initiating the Intake Process with the Commission, please return the attached questionnaire.

The Commission will be in touch once we are able to better discuss whether you have a charge of discrimination and how to proceed. Please do not be discouraged if it takes a few weeks to get back to you. Finally, please keep in mind that you only have 180 days from the last date of discrimination to file a Charge of Discrimination with the Commission.

Thank you,

NH Commission for Human Rights

57 Regional Drive, Suite #8

Concord, NH 03301

603-271-2767

Statement of Confidentiality

From: Mathew Tyler <**********>
Sent: Saturday, March 23, 2024 1:28 AM
To: HRC: Human Rights Commission <humanrights@hrc.nh.gov>
Subject: Fwd: March 1, 2024 Request for Accommodation

---------- Forwarded message ---------
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Date: Fri, Mar 22, 2024 at 8:27 AM
Subject: Re: March 1, 2024 Request for Accommodation
To: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
Cc: Mathew Tyler <**********>, DOJ-Election Law <electionlaw@doj.nh.gov>

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-Mathew Tyler

[Quoted text hidden]

2 attachments

SUMMARY FACT SHEET.pdf
262K

NHHRC PA Intake Q.pdf
147K

Mathew Tyler <**********> Mon, Mar 25, 2024 at 11:27 AM
To: ADA.complaint@usdoj.gov

---------- Forwarded message ---------
From: **Mathew Tyler** <**********>
Date: Fri, Mar 22, 2024 at 8:27 AM
Subject: Re: March 1, 2024 Request for Accommodation
To: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
Cc: Mathew Tyler <**********>, DOJ-Election Law <electionlaw@doj.nh.gov>

[Quoted text hidden]

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Mon, Mar 25, 2024 at 11:29 AM
To: **********

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:

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550 5.1.1 ... User Unknown
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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 11:29:03 -0700 (PDT)

---------- Forwarded message ----------
From: Mathew Tyler <**********>
To: ADA.complaint@usdoj.gov
Cc:
Bcc:
Date: Mon, 25 Mar 2024 11:27:21 -0700
Subject: Fwd: March 1, 2024 Request for Accommodation
----- Message truncated -----

O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> Mon, Mar 25, 2024 at 1:42 PM
To: Mathew Tyler <**********>
Cc: DOJ-Election Law <electionlaw@doj.nh.gov>

Good afternoon Mr. Tyler,

I fully explained the Secretary of State's reasoning in my prior letter to you. As explained in greater detail in that letter, New Hampshire law does not require you to personally physically collect the signatures required by the nominating papers process, and you have offered no justification for how your claimed disability could possibly prevent you from having campaign employees or volunteers collect signatures on your behalf—which is how candidates with substantial support meet the nominating papers process requirements. Nor have you attempted to address the case law rejecting claims from candidate-plaintiffs that the ADA requires an accommodation from ballot access signature requirements.

Although you appear to disagree with the Secretary of State's decision, you make no effort to address the legal reasoning set forth in my letter. I am not going to engage in an extended back-and-forth with you just because you disagree with the Secretary of State's decision. I encourage you to seek the advice of counsel who has experience in this area of law.

Take care,

Brendan

Brendan A. O'Donnell

Election Law Unit Chief

New Hampshire Department of Justice

1 Granite Place, Concord, NH 03301

brendan.a.odonnell@doj.nh.gov

Telephone: 603-271-3658

From: Mathew Tyler <**********>
Sent: Friday, March 22, 2024 11:28 AM
To: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
Cc: Mathew Tyler <**********>; DOJ-Election Law <electionlaw@doj.nh.gov>
Subject: Re: March 1, 2024 Request for Accommodation

Mr. O'Donnell,

How do you figure that the cited laws don't entitle me, a qualified individual with a disability to accommodations? 28 C.F.R. § 35.130(7)(i). Please explain.

1. The State is excluding me from participation, 28 CFR § 35.130(a); and,
2. The State is failing to furnish auxiliary aids/services as required by 28 C.F.R. § 35.160(b)(1); and,
3. The services are not being offered in the "...most integrated setting appropriate to the ***needs of the individual***", 42 U.S.C. § 12182(b)(1)(B); and,
4. The administration is being done in a manner that discriminates on the basis of disability and perpetuates disability discrimination, 42 U.S.C. § 12182(b)(1)(D); and,
5. The imposition of eligibility is screening out a qualified individual with a disability, 42 U.S.C. § 12182(b)(2)(A)(i); and,
6. The State is failing to take steps that may be necessary to "...ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services," 42 U.S.C. § 12182(b)(2)(A)(iii); and,

7. "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)

8. "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)

Non ADA cases that establish the requirement is unconstitutional;

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

5. "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)

What's more, the State of NH has still failed to show that my request would cause an undue burden or fundamentally alter anything as required by 42 U.S.C. § 12182(b)(2)(A)(ii) and 42 U.S.C. § 12182(b)(2)(A)(iii); as such the State is depriving me of due process and equal protection rights. The Department of Justice offers the following 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."

-Mathew Tyler
[Quoted text hidden]

Mathew Tyler <**********> Tue, Mar 26, 2024 at 5:42 AM
To: Brendan.A.Odonnell@doj.nh.gov, electionlaw@doj.nh.gov
Cc: Mathew Tyler <**********>

Mr. O’Donnell,

Pertaining to my being a qualified individual with disability, seemingly the State is not in a position to evaluate my medical needs strictly from the name of my ailments which must be why the Department of Justice establishes, "Public entities may not ask about the nature or extent of an individual’s disability," (1) For me personally though, major life activities affected by Central core disease: performing manual tasks, walking, standing, lifting, bending, breathing, and stamina; ADHD: Learning, reading,

concentrating, thinking, communicating, time/appointments, and working leading to my being indigent thus unable to pay filing fees aka poll taxes or pay for campaign employees or able to acquire volunteers from a State that I am not a resident of and that I don't know that I've ever visited.

As a qualified individual with a disability, I should not be reliant on others being available for help; "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). The purpose of the ADA and 504 is to empower persons with disabilities.

I'm having trouble locating one of the cases you cited, "Dekom v. New York, 2013 U.S. Dist. LEXIS 85360 (E.D.N.Y. June 18, 2013)," will you link me to it or email me a copy of it? The Dekom cases I've located don't indicate the word "disabilities" or pertain to ADA.

Anderson v. Celebrezze, 460 U.S. 780 (1983) seems to support my claim that deadlines and signature requirements violate constitutional rights; i.e., https://firstamendment.mtsu.edu/article/anderson-v-celebrezze/

Acosta v. Wolf, 2020 U.S. Dist. LEXIS 101296 (E.D. Pa., June 10, 2020); "Mr. Acosta fails to state an Americans with Disabilities Act claim" and Mr. Acosta is pursuing Title I of the Americans with Disabilities Act of 1990, I'm pursuing Title II and have conveyed a request for reasonable accommodations.

`The "natural effect" of Title II's "reasonable modification" requirement, Crosby, 530 U.S. at 373, in light of the foregoing observations, requires preemption of inconsistent state law when necessary to effectuate a required "reasonable modification." Congress clearly meant Title II to sweep broadly. If all state laws were insulated from Title II's reasonable modification requirement solely because they were state laws, "state law [would serve as] an obstacle to the accomplishment and execution of the full purposes and objectives of Congress" in enacting Title II. Marsh, 499 F.3d at 177. Far from "provid[ing] a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities," 42 U.S.C. § 12101(b)(1), the ADA would be powerless to work any reasonable modification in any requirement imposed by state law, no matter how trivial the requirement and no matter how minimal the costs of doing so. We conclude that the ADA's reasonable modification requirement contemplates modification to state laws, thereby permitting preemption of inconsistent state laws, when necessary to effectuate Title II's reasonable modification provision.[8]` (Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215 [2d Cir. 2013])

`...the ADA preempts inconsistent state law when appropriate and necessary to effectuate a reasonable accommodation under Title II is also consistent with decisions from our sister Circuits. See, e.g., Barber v. Colorado Dep't of Revenue, 562 F.3d 1222, 1232-33 (10th Cir. 2009) (ultimately concluding that there was no conflict between state law and the ADA in the case before it, but observing that the court "in no way affirm[ed] the district court's conclusion that `[a]n accommodation that would have required defendants to willfully ignore or violate the law is per se not reasonable.'" (citation omitted)); Quinones v. City of Evanston, Ill., 58 F.3d 275, 277 (7th Cir. 1995) ("[The defendant] believes that it is compelled to follow the directive from the state, but the Supremacy Clause of the Constitution requires a different order of priority. A discriminatory state law is not a defense to liability under federal law; it is a source of liability under federal law." (emphasis in original)); Williams v. Gen. Foods Corp., 492 F.2d 399, 404 (7th Cir. 1974) (similar). As the Ninth Circuit explained:

> The court's obligation under the ADA . . . is to ensure that the decision reached by the state authority is appropriate under the law and in light of proposed alternatives. Otherwise, any state could adopt requirements imposing unreasonable obstacles to the disabled, and when haled into court could evade the antidiscrimination mandate of the ADA merely by explaining that the state authority considered possible modifications and rejected them...

The NYSLRS argues that "Title II . . . requires reasonable modification only of `rules, policies, or practices' — not state statutes," NYSLRS Br. 19, and seeks to distinguish Crowder, which contemplated the modification of a mandatory Hawaii State administrative regulation rather than a state statute, see Crowder, 81 F.3d at 1481-85, on this ground, NYSLRS Br. 21 n.6. But as a general rule, duly promulgated state regulations have the force of law for these purposes as do statutes. See, e.g., State v. Kotis, 91 Hawai'i 319, 331, 984 P.2d 78, 90 (1999) (Under Hawaii law, "[a]dministrative rules, like statutes, have the force and effect of law."); Allstate Ins. Co. v. Rivera, 12 N.Y.3d 602, 608, 911 N.E.2d 817, 820, 883 N.Y.S.2d 755, 758 (2009) (under New York law, "[a] duly promulgated regulation . . . has the force of law." (internal quotation

marks omitted)). From the standpoint of the ADA's preemptive force, we can discern no reason to distinguish between the preemption of state statutes and state regulations. Cf. Crosby, 530 U.S. at 372 n.6 (noting that "a variety of state laws and regulations may conflict with a federal statute" and be preempted). And for the reasons discussed above, we do not read the ADA to prohibit reasonable modifications to state statutes when appropriate.` (Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215 [2d Cir. 2013])

"...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)

"...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)

The Department of Justice offers the following pertaining to undue burden and fundamentally altering anything, 42 U.S.C. § 12182(b)(2)(A)(ii) and 42 U.S.C. § 12182(b)(2)(A)(iii);

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."

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; New York State Rifle & Pistol Association, Inc. v. Bruen, 597 U.S. 1 establishes that "historical tradition" is a means in which law can be determined; and,
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); and,
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

United States Constitution, Art. I § 4, cl. 1 Pertains to Senator and Representatives, not the President of the United States of America; "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

-Mathew Tyler

(1) https://www.ada.gov/resources/title-ii-primer/

[Quoted text hidden]

O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> Wed, Mar 27, 2024 at 1:26 PM
To: Mathew Tyler <**********>
Cc: DOJ-Election Law <electionlaw@doj.nh.gov>

Good afternoon Mr. Tyler:

I disagree with all of your arguments, most of which take language out of context or conflate ADA law or requirements that are not applicable to your request.

As one example, in your first paragraph, you repeat that "public entities may not ask about the nature or extent of an individual's disability." However, you derived this quote from a paragraph in an ADA primer regarding service animals. The full paragraph makes it clear that this language is referring to how public entities should handle a person seeking to bring a service animal into a public facility.

> Public entities may exclude service animals only if 1) the dog is out of control and the handler cannot or does not regain control; or 2) the dog is not housebroken. If a service animal is excluded, the individual must be allowed to enter the facility without the service animal.
>
> Public entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry. In situations where it is not apparent that the dog is a service animal, a public entity may ask only two questions: 1) is the animal required because of a disability? and 2) what work or task has the dog been trained to perform? Public entities may not ask about the nature or extent of an individual's disability.

U.S. Department of Justice, Civil Rights Division; ADA Update: A Primer for State and Local Governments (last updated Fe. 28, 2020).

As a second example, you rely on Nat'l Fed'n of the Blind v. Lamone, 813 F.3d 494 (4th Cir. 2016). That case involved state law governing absentee voting—not ballot access requirements for persons seeking to be listed on the ballot as a candidate for the Office of the President of the United States. Even if that case were relevant, it is readily distinguishable. The issue in that case is whether disabled individuals had an equal opportunity to participate in absentee voting as the opportunity afforded to others. Specifically, disabled individuals such as the plaintiffs could not mark their ballots without assistance while other individuals could mark their ballots without assistance. Conversely, New Hampshire's nominating papers process neither requires nor expects any candidate, disabled or otherwise, to personally physically collect all required nominating papers signatures. It would be ludicrous to expect any serious candidate for the Office of the President to personally collect signatures for ballot access in all fifty states. Rather, as I have explained repeatedly, the purpose of ballot access requirements are to require candidates to make a preliminary showing of substantial support to qualify for a place on the ballot. You have the same opportunity as all other prospective candidates to organize a grass roots campaign with volunteers who will collect signatures; to hire campaign staffers to collect signatures or to recruit volunteers to collect signatures; to hire consultants who specialize in meeting ballot access requirements; and to solicit and accept campaign donations to pay for the campaign activities, including hiring campaign staffers, paying filing fees, and funding compliance with other ballot access requirements. On this last point, I was surprised that I was not able to locate an FEC Form 2 filing for your candidacy.

In sum, I disagree with your arguments that New Hampshire's nomination papers process discriminates against you on the basis of your claimed disabilities. If you have any further questions, I encourage you to review my prior communications or to consult with your campaign's legal counsel.

As a courtesy, I have attached a copy of the Dekom v. New York order.

-Brendan

[Quoted text hidden]

Dekom v. New York_ 2013 U.S. Dist. LEXIS 85360.PDF
641K

Mathew Tyler <**********> Wed, Mar 27, 2024 at 6:35 PM
To: "O'Donnell, Brendan" <Brendan.A.Odonnell@doj.nh.gov>
Cc: Mathew Tyler <**********>, DOJ-Election Law <electionlaw@doj.nh.gov>

Good evening Mr. O'Donnell,

Of course you disagree with me.

1. Your letter dated March 21, 2024 starts off refusing my request for reasonable accommodations not for anything pertaining to my request, rather about a State "...right..." that is not identified or established by anything and is irrelevant to my request. Even if the State has a right to require something, the State also has a right, and in certain circumstances a duty to provide exceptions; i.e., pursuant to a Section 504/ADA request for reasonable accommodations. This is what *Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215 (2d Cir. 2013)* establishes, that ADA requests preempt inconsistent state law when necessary to effectuate a required "reasonable modification."; and,
2. Without any identified or established medical accreditation, in your official government capacity as a lawyer, professed what my disability does and does not preclude me from; and,
3. Obviously the ADA primer I quoted verbatim pertaining to service animals, as well as the similar part I hadn't quoted ("Public entities may not ask individuals using such devices about their disability but may ask for a credible assurance that the device is required because of a disability.") about users of devices applies to people with all disabilities. Why would the ADA offer protections for some people with disabilities and not all? The ADA is meant to empower disabled people not further discriminate. What business is it of a public entity for a medical layperson to know about a person's medical conditions/ailments when it isn't relevant in determining whether a reasonable request causes an undue burden or fundamentally changes anything; which as far as I can tell are the only two lawful ways a public entity can refuse a request for reasonable accommodations. It has nothing to do with what the public entity thinks or feels about the request. I would also argue it potentially violates a person's 4th amendment to the US Const., secure in one's person and one's 13th amendment, involuntary servitude without punishment for a crime thus violating one's due process and 14th amendment too.
4. According to *Nat'l Fed'n of the Blind v. Lamone, 813 F.3d 494, 506-7 (4th Cir. 2016)*, I should not have to rely on other people to participate in any aspect of voting; "...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**." especially when the state is required to provide an exception by preempted superior law that has been affirmed by, *Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215, 35 at 6 - 36 at 2, 37 at 7 - 39 at 9 (2d Cir. 2013)*
5. As far as I can tell, Dekom v. New York does not pertain to a request for reasonable accommodations, only for perceived disability discrimination; and the ruling part of may make it more difficult being acceptable because they expect others to help is contrary to the purpose of the Rehabilitation Act and the purpose (42 U.S.C. § 12101[b]) and findings (42 U.S.C. § 12101[a]) of the ADA. Treating someone worse because they're disabled, making something more difficult for a person with a disability under the unsubstantiated, baseless assumption that other people, solely from the goodness of their heart will help or will even be around to help literally is disability discrimination, serving to perpetuate a disabled person being dependent on others rather than being independent.
6. *Nat'l Fed'n of the Blind v. Lamone, 813 F.3d 494 (4th Cir. 2016)* is distinguishable? How so? Disabled people couldn't mark their ballots without assistance, just as I cannot satisfy New Hampshire's unlawful federal / presidential candidate signature requirement without assistance and yet you cannot see how a public entity requiring a qualified individual with a disability, who has requested reasonable accomodations is indistinguishable?

It is by (1) New Hampshire failing to make reasonable accommodations for me to enjoy an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity;

and (2) New Hampshire failing to demonstrate how honoring my request would cause an undue burden to the state or fundamentally alter anything as prescribed by law that New Hampshire is discriminating against me for my being disabled. As far as I can tell, the only lawful way for a public entity to refuse a request for reasonable accommodations is by the aforementioned which the Department of Justice provides the following pertaining to undue burden and fundamentally altering anything;

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."

The State also lacks the power to determine presidential candidate eligibility as determined by the previous non ADA cases I've cited.

-Mathew Tyler

P.S.,

Thank you for letting me know about the FEC, I will look into that as I most certainly filed it after the 2020 election.

[Quoted text hidden]

Mathew Tyler <**********> Sat, Mar 30, 2024 at 4:37 PM
To: Mathew Tyler <**********>
Cc: "O'Donnell, Brendan" <Brendan.A.Odonnell@doj.nh.gov>, DOJ-Election Law <electionlaw@doj.nh.gov>

Mr. O'Donnell,

Here are some more laws supporting my right to reasonable modifications to NH policies;

Non ADA
52 U.S. Code § 10501(a) via 52 U.S. Code § 10501(b)(4) and I would also argue (b)(1)

52 U.S. Code § 10502(a)(1), (3)-(6)
* durational residency is established by the requirement of registered voters of the state to sign a petition
** A durational-residency requirement is a rule that requires a person to be a resident of a particular state for a specific period before they can exercise a particular right or privilege.

18 U.S. Code § 595

ADA
29 CFR § 1630.2(j)(iii) The **primary object** of attention in cases brought under the ADA should be **whether covered entities** have **complied *with their* obligations** and whether discrimination has occurred, ***not*** whether an individual's impairment substantially limits a major life activity. Accordingly, the threshold issue of whether an impairment "substantially limits" a major life activity should not demand extensive analysis.

28 CFR § 35.101(b)

42 U.S.C. § 12112(b)(5)(A), 42 U.S.C. § 12111(10)(A); 42 U.S.C. $ 12182(b)(2)(A); 42 U.S.C. § 12182(b)(2)(A)(ii)-(iii)

28 CFR § 35.164

28 CFR § 35.101(b), 28 CFR § 35.102(a), 28 CFR § 35.130, 28 CFR § 35.160,

42 U.S.C. § 2000e–7, 42 U.S.C. § 2000a(d), 42 U.S.C. § 1983, 42 U.S.C. § 1986

28 CFR § 35.160(c)(2) would prohibit the state's reliance on my providing people to satisfy the state's signature requirements.

Has NH complied with: 28 CFR § 35.105(a) and 28 CFR § 35.107(a)-(b)?

Subsequent copied, emphasis added, from: https://www.law.cornell.edu/cfr/text/28/appendix-B_to_part_35

> Taken together, these provisions are intended to **prohibit exclusion and segregation of individuals with disabilities** and the **denial of equal opportunities enjoyed by others**, based on, among other things, presumptions, patronizing attitudes, fears, and stereotypes about individuals with disabilities. Consistent with these standards, **public entities are required to ensure that their actions are based on facts applicable to individuals and not on presumptions as to what a class of individuals with disabilities can or cannot do.**
>
> **Integration** is **fundamental** to the purposes of the **Americans with Disabilities Act**. **Provision of segregated accommodations and services relegates persons with disabilities to second-class status.** For example, it would be a violation of this provision to require persons with disabilities to eat in the back room of a government cafeteria or to refuse to allow a person with a disability the full use of recreation or exercise facilities because of stereotypes about the person's ability to participate.
>
> Paragraph (b)(3) prohibits the public entity from utilizing criteria or methods of administration that deny individuals with disabilities access to the public entity's services, programs, and activities or that perpetuate the discrimination of another public entity, if both public entities are subject to common administrative control or are agencies of the same State. The phrase “criteria or methods of administration” refers to official written policies of the public entity and to the actual practices of the public entity. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny individuals with disabilities an effective opportunity to participate. This standard is consistent with the interpretation of section 504 by the U.S. Supreme Court in Alexander v. Choate, 469 U.S. 287 (1985). The Court in Choate explained that members of Congress made numerous statements during passage of section 504 regarding eliminating architectural barriers, providing access to transportation, and eliminating discriminatory effects of job qualification procedures. The Court then noted: “These statements would ring hollow if the resulting legislation could not rectify the harms resulting from action that discriminated by effect as well as by design.” Id. at 297 (footnote omitted).
>
> **Section 35.150 requires that each service, program, or activity conducted by a public entity, when viewed in its entirety, be readily accessible to and usable by individuals with disabilities.** The regulation makes clear, however, that a public entity is not required to make each of its existing facilities accessible (§ 35.150(a)(1)). Unlike title III of the Act, which requires public accommodations to remove architectural barriers where such removal is “readily achievable,” or to provide goods and services through alternative methods, where those methods are “readily achievable,” **title II requires a public entity to make its programs accessible in all cases, except where to do so would result in a fundamental alteration in the nature of the program or in undue financial and administrative burdens.** Congress intended the “undue burden” standard in title II to be significantly higher than the “readily achievable” standard in title III. Thus, although title II may not require removal of barriers in some cases where removal would be required under title III, the **program access requirement of title II should enable individuals with disabilities to participate in and benefit from the services, programs, or activities of public entities in all but the most unusual cases.**
>
> **It is the Department's view that compliance with § 35.150(a), like compliance with the corresponding provisions of the section 504 regulations for federally conducted programs, would in most cases not result in undue financial and administrative burdens on a public entity.** In determining whether financial and administrative burdens are undue, all public entity resources available for use in the funding and operation of the service, program, or activity should be considered. The burden of proving that compliance with paragraph (a) of § 35.150 would fundamentally alter the nature of a service, program, or activity or would result in undue financial and administrative burdens rests with the public entity.
>
> The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The Department recognizes the difficulty of identifying the official responsible for this determination, given the variety of organizational forms that may be taken by public entities and their components. The intention

of this paragraph is that the determination must be made by a high level official, no lower than a Department head, having budgetary authority and responsibility for making spending decisions.

-Mathew Tyler

[Quoted text hidden]

O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> Mon, Apr 1, 2024 at 7:51 AM
To: Mathew Tyler <**********>
Cc: DOJ-Election Law <electionlaw@doj.nh.gov>

Good morning Mr. Tyler:

I have responded to your request and numerous follow-up e-mails. I have explained the Secretary of State's position, which I believe is well-supported and correct. In my opinion, none of your e-mails or citations support your claim. Rather, you simply refuse to accept the Secretary of State's well-supported position. I will not individually address every new citation you send, and I encourage you again to get legal advice from your campaign's legal counsel.

-Brendan

From: Mathew Tyler <**********>
Sent: Saturday, March 30, 2024 7:38 PM
To: Mathew Tyler <**********>
Cc: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>; DOJ-Election Law <electionlaw@doj.nh.gov>
Subject: Re: March 1, 2024 Request for Accommodation

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

Mr. O'Donnell,

Here are some more laws supporting my right to reasonable modifications to NH policies;

Non ADA

52 U.S. Code § 10501(a) via 52 U.S. Code § 10501(b)(4) and I would also argue (b)(1)

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* durational residency is established by the requirement of registered voters of the state to sign a petition
** A durational-residency requirement is a rule that requires a person to be a resident of a particular state for a specific period before they can exercise a particular right or privilege.

18 U.S. Code § 595

ADA

29 CFR § 1630.2(j)(iii) The **primary object** of attention in cases brought under the ADA should be **whether covered entities** have **complied *with their* obligations** and whether discrimination has occurred, ***not*** whether an individual's impairment substantially limits a major life activity. Accordingly, the threshold issue of whether an impairment "substantially limits" a major life activity should not demand extensive analysis.

28 CFR § 35.101(b)

42 U.S.C. § 12112(b)(5)(A), 42 U.S.C. § 12111(10)(A); 42 U.S.C. $ 12182(b)(2)(A); 42 U.S.C. § 12182(b)(2)(A)(ii)-(iii)

28 CFR § 35.164

28 CFR § 35.101(b), 28 CFR § 35.102(a), 28 CFR § 35.130, 28 CFR § 35.160,

42 U.S.C. § 2000e–7, 42 U.S.C. § 2000a(d), 42 U.S.C. § 1983, 42 U.S.C. § 1986

28 CFR § 35.160(c)(2) would prohibit the state's reliance on my providing people to satisfy the state's signature requirements.

Has NH complied with: 28 CFR § 35.105(a) and 28 CFR § 35.107(a)-(b)?

Subsequent copied, emphasis added, from: https://www.law.cornell.edu/cfr/text/28/appendix-B_to_part_35

> Taken together, these provisions are intended to **prohibit exclusion and segregation of individuals with disabilities** and the **denial of equal opportunities enjoyed by others**, based on, among other things, presumptions, patronizing attitudes, fears, and stereotypes about individuals with disabilities. Consistent with these standards, **public entities are required to ensure that their actions are based on facts applicable to individuals and not on presumptions as to what a class of individuals with disabilities can or cannot do.**
>
> **Integration** is **fundamental** to the purposes of the **Americans with Disabilities Act**. **Provision of segregated accommodations and services relegates persons with disabilities to second-class status.** For example, it would be a violation of this provision to require persons with disabilities to eat in the back room of a government cafeteria or to refuse to allow a person with a disability the full use of recreation or exercise facilities because of stereotypes about the person's ability to participate.
>
> Paragraph (b)(3) prohibits the public entity from utilizing criteria or methods of administration that deny individuals with disabilities access to the public entity's services, programs, and activities or that perpetuate the discrimination of another public entity, if both public entities are subject to common administrative control or are agencies of the same State. The phrase "criteria or methods of administration" refers to official written policies of the public entity and to the actual practices of the public entity. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny individuals with

disabilities an effective opportunity to participate. This standard is consistent with the interpretation of section 504 by the U.S. Supreme Court in Alexander v. Choate, 469 U.S. 287 (1985). The Court in Choate explained that members of Congress made numerous statements during passage of section 504 regarding eliminating architectural barriers, providing access to transportation, and eliminating discriminatory effects of job qualification procedures. The Court then noted: "These statements would ring hollow if the resulting legislation could not rectify the harms resulting from action that discriminated by effect as well as by design." Id. at 297 (footnote omitted).

Section 35.150 requires that each service, program, or activity conducted by a public entity, when viewed in its entirety, be readily accessible to and usable by individuals with disabilities. The regulation makes clear, however, that a public entity is not required to make each of its existing facilities accessible (§ 35.150(a)(1)). Unlike title III of the Act, which requires public accommodations to remove architectural barriers where such removal is "readily achievable," or to provide goods and services through alternative methods, where those methods are "readily achievable," **title II requires a public entity to make its programs accessible in all cases, except where to do so would result in a fundamental alteration in the nature of the program or in undue financial and administrative burdens.** Congress intended the "undue burden" standard in title II to be significantly higher than the "readily achievable" standard in title III. Thus, although title II may not require removal of barriers in some cases where removal would be required under title III, the **program access requirement of title II should enable individuals with disabilities to participate in and benefit from the services, programs, or activities of public entities in all but the most unusual cases.**

It is the Department's view that compliance with § 35.150(a), like compliance with the corresponding provisions of the section 504 regulations for federally conducted programs, would in most cases not result in undue financial and administrative burdens on a public entity. In determining whether financial and administrative burdens are undue, all public entity resources available for use in the funding and operation of the service, program, or activity should be considered. The burden of proving that compliance with paragraph (a) of § 35.150 would fundamentally alter the nature of a service, program, or activity or would result in undue financial and administrative burdens rests with the public entity.

The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The Department recognizes the difficulty of identifying the official responsible for this determination, given the variety of organizational forms that may be taken by public entities and their components. The intention of this paragraph is that the determination must be made by a high level official, no lower than a Department head, having budgetary authority and responsibility for making spending decisions.

-Mathew Tyler

On Wed, Mar 27, 2024 at 6:35 PM Mathew Tyler <**********> wrote:

> Good evening Mr. O'Donnell,
>
> Of course you disagree with me.
>
> 1. Your letter dated March 21, 2024 starts off refusing my request for reasonable accommodations not for anything pertaining to my request, rather about a State "...right..." that is not identified or established by anything and is irrelevant to my request. Even if the State has a right to require something, the State also has a right, and in certain circumstances a duty to provide exceptions; i.e., pursuant to a Section 504/ADA request for reasonable accommodations. This is what *Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215 (2d Cir. 2013)* establishes, that

ADA requests preempt inconsistent state law when necessary to effectuate a required "reasonable modification."; and,

2. Without any identified or established medical accreditation, in your official government capacity as a lawyer, professed what my disability does and does not preclude me from; and,
3. Obviously the ADA primer I quoted verbatim pertaining to service animals, as well as the similar part I hadn't quoted ("Public entities may not ask individuals using such devices about their disability but may ask for a credible assurance that the device is required because of a disability.") about users of devices applies to people with all disabilities. Why would the ADA offer protections for some people with disabilities and not all? The ADA is meant to empower disabled people not further discriminate. What business is it of a public entity for a medical layperson to know about a person's medical conditions/ailments when it isn't relevant in determining whether a reasonable request causes an undue burden or fundamentally changes anything; which as far as I can tell are the only two lawful ways a public entity can refuse a request for reasonable accommodations. It has nothing to do with what the public entity thinks or feels about the request. I would also argue it potentially violates a person's 4th amendment to the US Const., secure in one's person and one's 13th amendment, involuntary servitude without punishment for a crime thus violating one's due process and 14th amendment too.
4. According to *Nat'l Fed'n of the Blind v. Lamone, 813 F.3d 494, 506-7 (4th Cir. 2016)*, I should not have to rely on other people to participate in any aspect of voting; "...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**." especially when the state is required to provide an exception by preempted superior law that has been affirmed by, *Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215, 35 at 6 - 36 at 2, 37 at 7 - 39 at 9 (2d Cir. 2013)*
5. As far as I can tell, Dekom v. New York does not pertain to a request for reasonable accommodations, only for perceived disability discrimination; and the ruling part of may make it more difficult being acceptable because they expect others to help is contrary to the purpose of the Rehabilitation Act and the purpose (42 U.S.C. § 12101[b]) and findings (42 U.S.C. § 12101[a]) of the ADA. Treating someone worse because they're disabled, making something more difficult for a person with a disability under the unsubstantiated, baseless assumption that other people, solely from the goodness of their heart will help or will even be around to help literally is disability discrimination, serving to perpetuate a disabled person being dependent on others rather than being independent.
6. *Nat'l Fed'n of the Blind v. Lamone, 813 F.3d 494 (4th Cir. 2016)* is distinguishable? How so? Disabled people couldn't mark their ballots without assistance, just as I cannot satisfy New Hampshire's unlawful federal / presidential candidate signature requirement without assistance and yet you cannot see how a public entity requiring a qualified individual with a disability, who has requested reasonable accomodations is indistinguishable?

It is by (1) New Hampshire failing to make reasonable accommodations for me to enjoy an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity; and (2) New Hampshire failing to demonstrate how honoring my request would cause an undue burden to the state or fundamentally alter anything as prescribed by law that New Hampshire is discriminating against me for my being disabled. As far as I can tell, the only lawful way for a public entity to refuse a request for reasonable accommodations is by the aforementioned which the Department of Justice provides the following pertaining to undue burden and fundamentally altering anything;

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."

The State also lacks the power to determine presidential candidate eligibility as determined by the previous non ADA cases I've cited.

-Mathew Tyler

P.S.,

Thank you for letting me know about the FEC, I will look into that as I most certainly filed it after the 2020 election.

On Wed, Mar 27, 2024 at 1:26 PM O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> wrote:

Good afternoon Mr. Tyler:

I disagree with all of your arguments, most of which take language out of context or conflate ADA law or requirements that are not applicable to your request.

As one example, in your first paragraph, you repeat that "public entities may not ask about the nature or extent of an individual's disability." However, you derived this quote from a paragraph in an ADA primer regarding service animals. The full paragraph makes it clear that this language is referring to how public entities should handle a person seeking to bring a service animal into a public facility.

> Public entities may exclude service animals only if 1) the dog is out of control and the handler cannot or does not regain control; or 2) the dog is not housebroken. If a service animal is excluded, the individual must be allowed to enter the facility without the service animal.
>
> Public entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry. In situations where it is not apparent that the dog is a service animal, a public entity may ask only two questions: 1) is the animal required because of a disability? and 2) what work or task has the dog been trained to perform? Public entities may not ask about the nature or extent of an individual's disability.

U.S. Department of Justice, Civil Rights Division; ADA Update: A Primer for State and Local Governments (last updated Fe. 28, 2020).

As a second example, you rely on Nat'l Fed'n of the Blind v. Lamone, 813 F.3d 494 (4th Cir. 2016). That case involved state law governing absentee voting—not ballot access requirements for persons seeking to be listed on the ballot as a candidate for the Office of the President of the United States. Even if that case were relevant, it is readily distinguishable. The issue in that case is whether disabled individuals had an equal opportunity to participate in absentee voting as the opportunity afforded to others. Specifically, disabled individuals such as the plaintiffs could not mark their ballots without assistance while other individuals could mark their ballots without assistance. Conversely, New Hampshire's nominating papers process neither requires nor expects any candidate, disabled or otherwise, to personally physically collect all required nominating papers signatures. It would be ludicrous to expect any serious candidate for the Office of the President to personally collect signatures for ballot access in all fifty states. Rather, as I have explained repeatedly, the purpose of ballot access requirements are to require candidates to make a preliminary showing of substantial support to qualify for a place on the ballot. You have the same opportunity as all other prospective candidates to organize a grass roots campaign with volunteers who will collect signatures; to hire campaign staffers to collect signatures or to recruit volunteers to collect signatures; to hire consultants who specialize in meeting ballot access requirements; and to solicit and accept campaign donations to pay for the campaign activities, including

hiring campaign staffers, paying filing fees, and funding compliance with other ballot access requirements. On this last point, I was surprised that I was not able to locate an FEC Form 2 filing for your candidacy.

In sum, I disagree with your arguments that New Hampshire's nomination papers process discriminates against you on the basis of your claimed disabilities. If you have any further questions, I encourage you to review my prior communications or to consult with your campaign's legal counsel.

As a courtesy, I have attached a copy of the Dekom v. New York order.

-Brendan

From: Mathew Tyler <**********>
Sent: Tuesday, March 26, 2024 8:42 AM
To: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>; DOJ-Election Law <electionlaw@doj.nh.gov>
Cc: Mathew Tyler <**********>
Subject: Re: March 1, 2024 Request for Accommodation

Mr. O'Donnell,

Pertaining to my being a qualified individual with disability, seemingly the State is not in a position to evaluate my medical needs strictly from the name of my ailments which must be why the Department of Justice establishes, "Public entities may not ask about the nature or extent of an individual's disability,"(1) For me personally though, major life activities affected by Central core disease: performing manual tasks, walking, standing, lifting, bending, breathing, and stamina; ADHD: Learning, reading, concentrating, thinking, communicating, time/appointments, and working leading to my being indigent thus unable to pay filing fees aka poll taxes or pay for campaign employees or able to acquire volunteers from a State that I am not a resident of and that I don't know that I've ever visited.

As a qualified individual with a disability, I should not be reliant on others being available for help; "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). The purpose of the ADA and 504 is to empower persons with disabilities.

I'm having trouble locating one of the cases you cited, "Dekom v. New York, 2013 U.S. Dist. LEXIS 85360 (E.D.N.Y. June 18, 2013)," will you link me to it or email me a copy of it? The Dekom cases I've located don't indicate the word "disabilities" or pertain to ADA.

Anderson v. Celebrezze, 460 U.S. 780 (1983) seems to support my claim that deadlines and signature requirements violate constitutional rights; i.e., https://firstamendment.mtsu.edu/article/anderson-v-celebrezze/

Acosta v. Wolf, 2020 U.S. Dist. LEXIS 101296 (E.D. Pa., June 10, 2020); "Mr. Acosta fails to state an Americans with Disabilities Act claim" and Mr. Acosta is pursuing Title I of the Americans with Disabilities Act of 1990, I'm pursuing Title II and have conveyed a request for reasonable accommodations.

`The "natural effect" of Title II's "reasonable modification" requirement, Crosby, 530 U.S. at 373, in light of the foregoing observations, requires preemption of inconsistent state law when necessary to effectuate a required "reasonable modification." Congress clearly meant Title II to sweep broadly. If all state laws were insulated from Title II's reasonable modification requirement solely because they were state laws, "state law [would serve as] an obstacle to the accomplishment and execution of the full purposes and objectives of Congress" in enacting Title II. Marsh, 499 F.3d at 177. Far from "provid[ing] a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities," 42 U.S.C. § 12101(b)(1), the ADA would be powerless to work any reasonable modification in any requirement imposed by state law, no matter how trivial the requirement and no matter how minimal the costs of doing so. We conclude that the ADA's reasonable modification requirement contemplates modification to state laws, thereby permitting preemption of inconsistent state laws, when necessary to effectuate Title II's reasonable modification provision.[8]` (Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215 [2d Cir. 2013])

`...the ADA preempts inconsistent state law when appropriate and necessary to effectuate a reasonable accommodation under Title II is also consistent with decisions from our sister Circuits. See, e.g., Barber v. Colorado Dep't of Revenue, 562 F.3d 1222, 1232-33 (10th Cir. 2009) (ultimately concluding that there was no conflict between state law and the ADA in the case before it, but observing that the court "in no way affirm[ed] the district court's conclusion that `[a]n accommodation that would have required defendants to willfully ignore or violate the law is per se not reasonable.'" (citation omitted)); Quinones v. City of Evanston, Ill., 58 F.3d 275, 277 (7th Cir. 1995) ("[The defendant] believes that it is compelled to follow the directive from the state, but the Supremacy Clause of the Constitution requires a different order of priority. A discriminatory state law is not a defense to liability under federal law; it is a source of liability under federal law." (emphasis in original)); Williams v. Gen. Foods Corp., 492 F.2d 399, 404 (7th Cir. 1974) (similar). As the Ninth Circuit explained:

> The court's obligation under the ADA . . . is to ensure that the decision reached by the state authority is appropriate under the law and in light of proposed alternatives. Otherwise, any state could adopt requirements imposing unreasonable obstacles to the disabled, and when haled into court could evade the antidiscrimination mandate of the ADA merely by explaining that the state authority considered possible modifications and rejected them...

The NYSLRS argues that "Title II . . . requires reasonable modification only of `rules, policies, or practices' — not state statutes," NYSLRS Br. 19, and seeks to distinguish Crowder, which contemplated the modification of a mandatory Hawaii State administrative regulation rather than a state statute, see Crowder, 81 F.3d at 1481-85, on this ground, NYSLRS Br. 21 n.6. But as a general rule, duly promulgated state regulations have the force of law for these purposes as do statutes. See, e.g., State v. Kotis, 91 Hawai'i 319, 331, 984 P.2d 78, 90 (1999) (Under Hawaii law, "[a]dministrative rules, like statutes, have the force and effect of law."); Allstate Ins. Co. v. Rivera, 12 N.Y.3d 602, 608, 911 N.E.2d 817, 820, 883 N.Y.S.2d 755, 758 (2009) (under New York law, "[a] duly promulgated regulation . . . has the force of law." (internal quotation marks omitted)). From the standpoint of the ADA's preemptive force, we can discern no reason to distinguish between the preemption of state statutes and state regulations. Cf. Crosby, 530 U.S. at 372 n.6 (noting that "a

variety of state laws and regulations may conflict with a federal statute" and be preempted). And for the reasons discussed above, we do not read the ADA to prohibit reasonable modifications to state statutes when appropriate.` (Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215 [2d Cir. 2013])

"...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)

"...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)

The Department of Justice offers the following pertaining to undue burden and fundamentally altering anything, 42 U.S.C. § 12182(b)(2)(A)(ii) and 42 U.S.C. § 12182(b)(2)(A)(iii);

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."

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; New York State Rifle & Pistol Association, Inc. v. Bruen, 597 U.S. 1 establishes that "historical tradition" is a means in which law can be determined; and,
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); and,
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

United States Constitution, Art. I § 4, cl. 1 Pertains to Senator and Representatives, not the President of the United States of America; "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

-Mathew Tyler

(1) https://www.ada.gov/resources/title-ii-primer/

On Mon, Mar 25, 2024 at 1:42 PM O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> wrote:

> Good afternoon Mr. Tyler,
>
> I fully explained the Secretary of State's reasoning in my prior letter to you. As explained in greater detail in that letter, New Hampshire law does not require you to personally physically collect the signatures required by the nominating papers process, and you have offered no justification for how your claimed disability could possibly prevent you from having campaign employees or volunteers collect signatures on your behalf—which is how candidates with substantial support meet the nominating papers process requirements. Nor have you attempted to address the case law rejecting claims from candidate-plaintiffs that the ADA requires an accommodation from ballot access signature requirements.
>
> Although you appear to disagree with the Secretary of State's decision, you make no effort to address the legal reasoning set forth in my letter. I am not going to engage in an extended back-and-forth with you just because you disagree with the Secretary of State's decision. I encourage you to seek the advice of counsel who has experience in this area of law.
>
> Take care,
>
> Brendan
>
> Brendan A. O'Donnell
>
> Election Law Unit Chief
>
> New Hampshire Department of Justice
>
> 1 Granite Place, Concord, NH 03301
>
> brendan.a.odonnell@doj.nh.gov
>
> Telephone: 603-271-3658
>
> ---
>
> **From:** Mathew Tyler <**********>
> **Sent:** Friday, March 22, 2024 11:28 AM
> **To:** O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
> **Cc:** Mathew Tyler <**********>; DOJ-Election Law <electionlaw@doj.nh.gov>
> **Subject:** Re: March 1, 2024 Request for Accommodation

Mr. O'Donnell,

How do you figure that the cited laws don't entitle me, a qualified individual with a disability to accommodations? 28 C.F.R. § 35.130(7)(i). Please explain.

1. The State is excluding me from participation, 28 CFR § 35.130(a); and,
2. The State is failing to furnish auxiliary aids/services as required by 28 C.F.R. § 35.160(b)(1); and,
3. The services are not being offered in the "...most integrated setting appropriate to the ***needs of the individual***", 42 U.S.C. § 12182(b)(1)(B); and,
4. The administration is being done in a manner that discriminates on the basis of disability and perpetuates disability discrimination, 42 U.S.C. § 12182(b)(1)(D); and,
5. The imposition of eligibility is screening out a qualified individual with a disability, 42 U.S.C. § 12182(b)(2)(A)(i); and,
6. The State is failing to take steps that may be necessary to "...ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services," 42 U.S.C. § 12182(b)(2)(A)(iii); and,

7. "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)

8. "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)

Non ADA cases that establish the requirement is unconstitutional;

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

5. "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)

What's more, the State of NH has still failed to show that my request would cause an undue burden or fundamentally alter anything as required by 42 U.S.C. § 12182(b)(2)(A)(ii) and 42 U.S.C. § 12182(b)(2)(A)(iii); as such the State is depriving me of due process and equal protection rights. The Department of Justice offers the following 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."

-Mathew Tyler

On Fri, Mar 22, 2024 at 5:58 AM O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> wrote:

> Good morning Mr. Tyler,
>
> I read your prior e-mails to Attorney Fitch. I also reviewed the laws that you cited. None of that supports your argument that you are entitled to an accommodation from the signature requirement of the nomination papers process.
>
> As I explained in my letter to you, no court has recognized the appropriateness of the accommodation you seek, and multiple courts have rejected claims that a candidate-plaintiff was entitled to an accommodation from signature requirements for access to ballots as a candidate.
>
> Accordingly, if you want to have your name placed on the State General Election ballot through the nominating papers process, you and all of the campaign workers and volunteers acting on your behalf must comply with all statutory requirements.
>
> Sincerely,
>
> Brendan
>
> Brendan A. O'Donnell
>
> Election Law Unit Chief
>
> New Hampshire Department of Justice
>
> 1 Granite Place, Concord, NH 03301
>
> brendan.a.odonnell@doj.nh.gov
>
> Telephone: 603-271-3658
>
> ---
>
> **From:** Mathew Tyler <**********>
> **Sent:** Thursday, March 21, 2024 8:43 PM
> **To:** Tekin, Jill <Jill.Tekin@doj.nh.gov>
> **Cc:** **********; O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
> **Subject:** Re: March 1, 2024 Request for Accommodation
>
>
>
> ---
>
> Ms. Tekin,

In terms of the ADA, State laws are as inconsequential as they are irrelevant as conflicting State laws are subordinate and thus precluded by the "Supremacy Clause" to the US Constitution (Article 6, clause 2 to the US Constitution [1]).

As you didn't seem to receive or read my email to Orville B. "Bud" Fitch II, unless Honest services fraud (18 U.S.C. § 1346) and/or obstruction of justice? I have attached it. Please read it and what is cited. My response starts on page three of the attached PDF. In my response I provide multiple Department of Justice guidelines for interpreting ADA requests for reasonable accommodations, federal laws which supersede and preclude conflicting state law, cases for ADA and non ADA matters:

"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)

I have also attached a letter from my physician for me being excused from jury duty. I have made the statement under penalty of perjury too. How much more must I demonstrate that I am a qualified individual with a disability to you? When the Department of Justice establishes, "Public entities may not ask about the nature or extent of an individual's disability,"(2)

The Department of Justice via ADA.gov provides an information line(3) for you;

> ADA Information Line
>
> Talk to us at 800-514-0301 | 1-833-610-1264 (TTY)
>
> M, W, F: 9:30am - 12pm and 3pm - 5:30pm ET
>
> Tu: 12:30pm - 5:30pm ET, Th: 2:30pm - 5:30pm ET

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

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

Here are the laws I've cited in my previous email so that maybe you will actually read them;

42 U.S.C. § 12131(2)
42 U.S.C. § 12102(1)(A)
42 U.S.C. § 12102(1)(B)

28 C.F.R. § 35.130(d)
28 C.F.R. § 35.149
28 C.F.R. § 35.160(b)
28 C.F.R. § 35.160(c)
28 C.F.R. § 35.130(b)(1)
28 C.F.R. § 35.130(b)(2)
28 C.F.R. § 35.130(b)(3)
28 C.F.R. § 35.130(b)(6)
28 C.F.R. § 35.130(b)(7)
28 C.F.R. § 35.130(b)(8)
42 U.S.C. § 1983
42 U.S.C. § 12101(a)(7)
42 U.S.C. § 12101(b)
42 U.S.C. § 12103(1)(D)
42 U.S.C. § 12182(b)(1)(A)(i)
42 U.S.C. § 12182(b)(1)(A)(ii)
42 U.S.C. § 12182(b)(1)(A)(iii)
42 U.S.C. § 12182(b)(1)(B)
42 U.S.C. § 12182(b)(1)(C)
42 U.S.C. § 12182(b)(1)(D)
42 U.S.C. § 12182(b)(1)(E)
42 U.S.C. § 12182(b)(2)(A)(i)
42 U.S.C. § 12182(b)(2)(A)(ii)
42 U.S.C. § 12182(b)(2)(A)(iii)

18 U.S.C. § 249
18 U.S.C. § 245
18 U.S.C. § 245(b)(1)(A)
18 U.S.C. § 245(b)(1)(B)
18 U.S.C. § 245(b)(1)(E)

18 U.S.C. § 241
18 U.S.C. § 242

42 U.S.C. § 12132
28 C.F.R. § 35.130(a)

42 U.S.C. § 12132
28 C.F.R. § 35.130(b)(1)

-Mathew Tyler

[1] https://en.wikipedia.org/wiki/Supremacy_Clause

(2) https://www.ada.gov/resources/title-ii-primer/

(3) https://www.ada.gov/infoline/

On Thu, Mar 21, 2024 at 11:48 AM Tekin, Jill <Jill.Tekin@doj.nh.gov> wrote:

> Good afternoon,
>
> Please see the attached, regarding the above.
>
> Thank you.
>
> Sincerely,
>
> Jill Tekin
>
> Investigative Paralegal
>
> Civil Bureau
>
> Attorney General's Office
>
> 1 Granite Place - South
>
> Concord, NH 03301-6397
>
> Phone No: (603) 271-1264
>
> Fax No: (603) 271-2110
>
> Jill.Tekin@doj.nh.gov
>
> 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.

Mathew Tyler <**********> Mon, Apr 1, 2024 at 9:16 AM
To: "O'Donnell, Brendan" <Brendan.A.Odonnell@doj.nh.gov>
Cc: Mathew Tyler <**********>, DOJ-Election Law <electionlaw@doj.nh.gov>

Good morrow Mr. O'Donnell,

What other actions/alternatives to my request for reasonable modifications is the state proposing to make to satisfy the state's obligation to operate in an inclusive manner; providing me, a qualified individual with disabilities with an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of the state?

What is the contact information of the designated employee [28 CFR § 35.107(a)] and what is the published complaint procedure for grievances [28 CFR § 35.107(b)]?

-Mathew Tyler

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Phone No: (603) 271-1264

[Quoted text hidden]

O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> Mon, Apr 8, 2024 at 6:17 AM
To: Mathew Tyler <**********>
Cc: DOJ-Election Law <electionlaw@doj.nh.gov>

Good morning Mr. Tyler:

The Secretary of State's Office did not have a published grievance procedure as of the date of your e-mail, below. While you are not obligated to do so, you are welcome to appeal Attorney Fitch's decision (regarding your claim to a right to an ADA accommodation for ballot access without nominating papers or paying the filing fee) in writing to the Secretary of State c/o the ADA Compliance Coordinator:

ADA Compliance Coordinator: David Lang, Chief of Staff

Department of State

State House Room 204

107 North Main Street

Concord, NH 03301

(603) 271-3242

Administration@sos.nh.gov

-Brendan

Brendan A. O'Donnell

Election Law Unit Chief

New Hampshire Department of Justice

1 Granite Place, Concord, NH 03301

brendan.a.odonnell@doj.nh.gov

Telephone: 603-271-3658

From: Mathew Tyler <**********>
Sent: Monday, April 1, 2024 12:17 PM
To: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
Cc: Mathew Tyler <**********>; DOJ-Election Law <electionlaw@doj.nh.gov>
Subject: Re: March 1, 2024 Request for Accommodation

Good morrow Mr. O'Donnell,

What other actions/alternatives to my request for reasonable modifications is the state proposing to make to satisfy the state's obligation to operate in an inclusive manner; providing me, a qualified individual with disabilities with an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of the state?

What is the contact information of the designated employee [28 CFR § 35.107(a)] and what is the published complaint procedure for grievances [28 CFR § 35.107(b)]?

-Mathew Tyler

On Mon, Apr 1, 2024 at 7:51 AM O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> wrote:

> Good morning Mr. Tyler:
>
> I have responded to your request and numerous follow-up e-mails. I have explained the Secretary of State's position, which I believe is well-supported and correct. In my opinion, none of your e-mails or citations support your claim. Rather, you simply refuse to accept the Secretary of State's well-supported position. I will not individually address every new citation you send, and I encourage you again to get legal advice from your campaign's legal counsel.
>
> -Brendan

From: Mathew Tyler <**********>
Sent: Saturday, March 30, 2024 7:38 PM
To: Mathew Tyler <**********>
Cc: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>; DOJ-Election Law <electionlaw@doj.nh.gov>
Subject: Re: March 1, 2024 Request for Accommodation

Mr. O'Donnell,

Here are some more laws supporting my right to reasonable modifications to NH policies;

Non ADA

52 U.S. Code § 10501(a) via 52 U.S. Code § 10501(b)(4) and I would also argue (b)(1)

52 U.S. Code § 10502(a)(1), (3)-(6)
* durational residency is established by the requirement of registered voters of the state to sign a petition
** A durational-residency requirement is a rule that requires a person to be a resident of a particular state for a specific period before they can exercise a particular right or privilege.

18 U.S. Code § 595

ADA

29 CFR § 1630.2(j)(iii) The **primary object** of attention in cases brought under the ADA should be **whether covered entities** have **complied *with their* obligations** and whether discrimination has occurred, ***not*** whether an individual's impairment substantially limits a major life activity. Accordingly, the threshold issue of whether an impairment "substantially limits" a major life activity should not demand extensive analysis.

28 CFR § 35.101(b)

42 U.S.C. § 12112(b)(5)(A), 42 U.S.C. § 12111(10)(A); 42 U.S.C. $ 12182(b)(2)(A); 42 U.S.C. § 12182(b)(2)(A)(ii)-(iii)

28 CFR § 35.164

28 CFR § 35.101(b), 28 CFR § 35.102(a), 28 CFR § 35.130, 28 CFR § 35.160,

42 U.S.C. § 2000e–7, 42 U.S.C. § 2000a(d), 42 U.S.C. § 1983, 42 U.S.C. § 1986

28 CFR § 35.160(c)(2) would prohibit the state's reliance on my providing people to satisfy the state's signature requirements.

Has NH complied with: 28 CFR § 35.105(a) and 28 CFR § 35.107(a)-(b)?

Subsequent copied, emphasis added, from: https://www.law.cornell.edu/cfr/text/28/appendix-B_to_part_35

> Taken together, these provisions are intended to **prohibit exclusion and segregation of individuals with disabilities** and the **denial of equal opportunities enjoyed by others**, based on, among other things, presumptions, patronizing attitudes, fears, and stereotypes about individuals with disabilities. Consistent with these standards, **public entities are required to ensure that their actions are based on facts applicable to individuals and not on presumptions as to what a class of individuals with disabilities can or cannot do.**
>
> **Integration** is **fundamental** to the purposes of the **Americans with Disabilities Act**. **Provision of segregated accommodations and services relegates persons with disabilities to second-class status.** For example, it would be a violation of this provision to require persons with disabilities to eat in the back room of a government cafeteria or to refuse to allow a person with a disability the full use of recreation or exercise facilities because of stereotypes about the person's ability to participate.
>
> Paragraph (b)(3) prohibits the public entity from utilizing criteria or methods of administration that deny individuals with disabilities access to the public entity's services, programs, and activities or that perpetuate the discrimination of another public entity, if both public entities are subject to common administrative control or are agencies of the same State. The phrase "criteria or methods of administration" refers to official written policies of the public entity and to the actual practices of the public entity. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny individuals with disabilities an effective opportunity to participate. This standard is consistent with the interpretation of section 504 by the U.S. Supreme Court in Alexander v. Choate, 469 U.S. 287 (1985). The Court in Choate explained that members of Congress made numerous statements during passage of section 504 regarding eliminating architectural barriers, providing access to transportation, and eliminating discriminatory effects of job qualification procedures. The Court then noted: "These statements would ring hollow if the resulting legislation could not rectify the harms resulting from action that discriminated by effect as well as by design." Id. at 297 (footnote omitted).
>
> **Section 35.150 requires that each service, program, or activity conducted by a public entity, when viewed in its entirety, be readily accessible to and usable by individuals with disabilities.** The regulation makes clear, however, that a public entity is not required to make each of its existing facilities accessible (§ 35.150(a)(1)). Unlike title III of the Act, which requires public accommodations to remove architectural barriers where such removal is "readily achievable," or to provide goods and services through alternative methods, where those methods are "readily achievable," **title II requires a public entity to make its programs accessible in all cases, except where to do so would result in a fundamental alteration in the nature of the program or in undue financial and administrative burdens.** Congress intended the "undue burden" standard in title II to be significantly higher than the "readily achievable" standard in title III. Thus, although title II may not require removal of barriers in some cases where removal would be required under title III, the **program access requirement of title II should enable individuals with disabilities to participate in and benefit from the services, programs, or activities of public entities in all but the most unusual cases.**

> **It is the Department's view that compliance with § 35.150(a), like compliance with the corresponding provisions of the section 504 regulations for federally conducted programs, would in most cases not result in undue financial and administrative burdens on a public entity.** In determining whether financial and administrative burdens are undue, all public entity resources available for use in the funding and operation of the service, program, or activity should be considered. The burden of proving that compliance with paragraph (a) of § 35.150 would fundamentally alter the nature of a service, program, or activity or would result in undue financial and administrative burdens rests with the public entity.
>
> The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The Department recognizes the difficulty of identifying the official responsible for this determination, given the variety of organizational forms that may be taken by public entities and their components. The intention of this paragraph is that the determination must be made by a high level official, no lower than a Department head, having budgetary authority and responsibility for making spending decisions.

-Mathew Tyler

On Wed, Mar 27, 2024 at 6:35 PM Mathew Tyler <**********> wrote:

> Good evening Mr. O'Donnell,
>
> Of course you disagree with me.
>
> 1. Your letter dated March 21, 2024 starts off refusing my request for reasonable accommodations not for anything pertaining to my request, rather about a State "...right..." that is not identified or established by anything and is irrelevant to my request. Even if the State has a right to require something, the State also has a right, and in certain circumstances a duty to provide exceptions; i.e., pursuant to a Section 504/ADA request for reasonable accommodations. This is what *Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215 (2d Cir. 2013)* establishes, that ADA requests preempt inconsistent state law when necessary to effectuate a required "reasonable modification."; and,
> 2. Without any identified or established medical accreditation, in your official government capacity as a lawyer, professed what my disability does and does not preclude me from; and,
> 3. Obviously the ADA primer I quoted verbatim pertaining to service animals, as well as the similar part I hadn't quoted ("Public entities may not ask individuals using such devices about their disability but may ask for a credible assurance that the device is required because of a disability.") about users of devices applies to people with all disabilities. Why would the ADA offer protections for some people with disabilities and not all? The ADA is meant to empower disabled people not further discriminate. What business is it of a public entity for a medical layperson to know about a person's medical conditions/ailments when it isn't relevant in determining whether a reasonable request causes an undue burden or fundamentally changes anything; which as far as I can tell are the only two lawful ways a public entity can refuse a request for reasonable accommodations. It has nothing to do with what the public entity thinks or feels about the request. I would also argue it potentially violates a person's 4th amendment to the US Const., secure in one's person and one's 13th amendment, involuntary servitude without punishment for a crime thus violating one's due process and 14th amendment too.
> 4. According to *Nat'l Fed'n of the Blind v. Lamone, 813 F.3d 494, 506-7 (4th Cir. 2016)*, I should not have to rely on other people to participate in any aspect of voting; "...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**." especially when the state is required to provide an exception by

preempted superior law that has been affirmed by, *Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215, 35 at 6 - 36 at 2, 37 at 7 - 39 at 9 (2d Cir. 2013)*

5. As far as I can tell, Dekom v. New York does not pertain to a request for reasonable accommodations, only for perceived disability discrimination; and the ruling part of may make it more difficult being acceptable because they expect others to help is contrary to the purpose of the Rehabilitation Act and the purpose (42 U.S.C. § 12101[b]) and findings (42 U.S.C. § 12101[a]) of the ADA. Treating someone worse because they're disabled, making something more difficult for a person with a disability under the unsubstantiated, baseless assumption that other people, solely from the goodness of their heart will help or will even be around to help literally is disability discrimination, serving to perpetuate a disabled person being dependent on others rather than being independent.
6. *Nat'l Fed'n of the Blind v. Lamone, 813 F.3d 494 (4th Cir. 2016)* is distinguishable? How so? Disabled people couldn't mark their ballots without assistance, just as I cannot satisfy New Hampshire's unlawful federal / presidential candidate signature requirement without assistance and yet you cannot see how a public entity requiring a qualified individual with a disability, who has requested reasonable accomodations is indistinguishable?

It is by (1) New Hampshire failing to make reasonable accommodations for me to enjoy an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity; and (2) New Hampshire failing to demonstrate how honoring my request would cause an undue burden to the state or fundamentally alter anything as prescribed by law that New Hampshire is discriminating against me for my being disabled. As far as I can tell, the only lawful way for a public entity to refuse a request for reasonable accommodations is by the aforementioned which the Department of Justice provides the following pertaining to undue burden and fundamentally altering anything;

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."

The State also lacks the power to determine presidential candidate eligibility as determined by the previous non ADA cases I've cited.

-Mathew Tyler

P.S.,

Thank you for letting me know about the FEC, I will look into that as I most certainly filed it after the 2020 election.

On Wed, Mar 27, 2024 at 1:26 PM O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> wrote:

> Good afternoon Mr. Tyler:

I disagree with all of your arguments, most of which take language out of context or conflate ADA law or requirements that are not applicable to your request.

As one example, in your first paragraph, you repeat that "public entities may not ask about the nature or extent of an individual's disability." However, you derived this quote from a paragraph in an ADA primer regarding service animals. The full paragraph makes it clear that this language is referring to how public entities should handle a person seeking to bring a service animal into a public facility.

> Public entities may exclude service animals only if 1) the dog is out of control and the handler cannot or does not regain control; or 2) the dog is not housebroken. If a service animal is excluded, the individual must be allowed to enter the facility without the service animal.
>
> Public entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry. In situations where it is not apparent that the dog is a service animal, a public entity may ask only two questions: 1) is the animal required because of a disability? and 2) what work or task has the dog been trained to perform? Public entities may not ask about the nature or extent of an individual's disability.

U.S. Department of Justice, Civil Rights Division; ADA Update: A Primer for State and Local Governments (last updated Fe. 28, 2020).

As a second example, you rely on Nat'l Fed'n of the Blind v. Lamone, 813 F.3d 494 (4th Cir. 2016). That case involved state law governing absentee voting—not ballot access requirements for persons seeking to be listed on the ballot as a candidate for the Office of the President of the United States. Even if that case were relevant, it is readily distinguishable. The issue in that case is whether disabled individuals had an equal opportunity to participate in absentee voting as the opportunity afforded to others. Specifically, disabled individuals such as the plaintiffs could not mark their ballots without assistance while other individuals could mark their ballots without assistance. Conversely, New Hampshire's nominating papers process neither requires nor expects any candidate, disabled or otherwise, to personally physically collect all required nominating papers signatures. It would be ludicrous to expect any serious candidate for the Office of the President to personally collect signatures for ballot access in all fifty states. Rather, as I have explained repeatedly, the purpose of ballot access requirements are to require candidates to make a preliminary showing of substantial support to qualify for a place on the ballot. You have the same opportunity as all other prospective candidates to organize a grass roots campaign with volunteers who will collect signatures; to hire campaign staffers to collect signatures or to recruit volunteers to collect signatures; to hire consultants who specialize in meeting ballot access requirements; and to solicit and accept campaign donations to pay for the campaign activities, including hiring campaign staffers, paying filing fees, and funding compliance with other ballot access requirements. On this last point, I was surprised that I was not able to locate an FEC Form 2 filing for your candidacy.

In sum, I disagree with your arguments that New Hampshire's nomination papers process discriminates against you on the basis of your claimed disabilities. If you have any further questions, I encourage you to review my prior communications or to consult with your campaign's legal counsel.

As a courtesy, I have attached a copy of the Dekom v. New York order.

-Brendan

From: Mathew Tyler <**********>
Sent: Tuesday, March 26, 2024 8:42 AM
To: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>; DOJ-Election Law <electionlaw@doj.nh.gov>
Cc: Mathew Tyler <**********>
Subject: Re: March 1, 2024 Request for Accommodation

Mr. O'Donnell,

Pertaining to my being a qualified individual with disability, seemingly the State is not in a position to evaluate my medical needs strictly from the name of my ailments which must be why the Department of Justice establishes, "Public entities may not ask about the nature or extent of an individual's disability,"(1) For me personally though, major life activities affected by Central core disease: performing manual tasks, walking, standing, lifting, bending, breathing, and stamina; ADHD: Learning, reading, concentrating, thinking, communicating, time/appointments, and working leading to my being indigent thus unable to pay filing fees aka poll taxes or pay for campaign employees or able to acquire volunteers from a State that I am not a resident of and that I don't know that I've ever visited.

As a qualified individual with a disability, I should not be reliant on others being available for help; "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). The purpose of the ADA and 504 is to empower persons with disabilities.

I'm having trouble locating one of the cases you cited, "Dekom v. New York, 2013 U.S. Dist. LEXIS 85360 (E.D.N.Y. June 18, 2013)," will you link me to it or email me a copy of it? The Dekom cases I've located don't indicate the word "disabilities" or pertain to ADA.

Anderson v. Celebrezze, 460 U.S. 780 (1983) seems to support my claim that deadlines and signature requirements violate constitutional rights; i.e., https://firstamendment.mtsu.edu/article/anderson-v-celebrezze/

Acosta v. Wolf, 2020 U.S. Dist. LEXIS 101296 (E.D. Pa., June 10, 2020); "Mr. Acosta fails to state an Americans with Disabilities Act claim" and Mr. Acosta is pursuing Title I of the Americans with Disabilities Act of 1990, I'm pursuing Title II and have conveyed a request for reasonable accommodations.

`The "natural effect" of Title II's "reasonable modification" requirement, Crosby, 530 U.S. at 373, in light of the foregoing observations, requires preemption of inconsistent state law when necessary to effectuate a required "reasonable modification." Congress clearly meant Title II to sweep broadly. If all state laws were insulated from Title II's reasonable modification requirement solely because they were state laws, "state law [would serve as] an obstacle to the

accomplishment and execution of the full purposes and objectives of Congress" in enacting Title II. Marsh, 499 F.3d at 177. Far from "provid[ing] a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities," 42 U.S.C. § 12101(b)(1), the ADA would be powerless to work any reasonable modification in any requirement imposed by state law, no matter how trivial the requirement and no matter how minimal the costs of doing so. We conclude that the ADA's reasonable modification requirement contemplates modification to state laws, thereby permitting preemption of inconsistent state laws, when necessary to effectuate Title II's reasonable modification provision.[8]` (Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215 [2d Cir. 2013])

`...the ADA preempts inconsistent state law when appropriate and necessary to effectuate a reasonable accommodation under Title II is also consistent with decisions from our sister Circuits. See, e.g., Barber v. Colorado Dep't of Revenue, 562 F.3d 1222, 1232-33 (10th Cir. 2009) (ultimately concluding that there was no conflict between state law and the ADA in the case before it, but observing that the court "in no way affirm[ed] the district court's conclusion that `[a]n accommodation that would have required defendants to willfully ignore or violate the law is per se not reasonable.'" (citation omitted)); Quinones v. City of Evanston, Ill., 58 F.3d 275, 277 (7th Cir. 1995) ("[The defendant] believes that it is compelled to follow the directive from the state, but the Supremacy Clause of the Constitution requires a different order of priority. A discriminatory state law is not a defense to liability under federal law; it is a source of liability under federal law." (emphasis in original)); Williams v. Gen. Foods Corp., 492 F.2d 399, 404 (7th Cir. 1974) (similar). As the Ninth Circuit explained:

> The court's obligation under the ADA . . . is to ensure that the decision reached by the state authority is appropriate under the law and in light of proposed alternatives. Otherwise, any state could adopt requirements imposing unreasonable obstacles to the disabled, and when haled into court could evade the antidiscrimination mandate of the ADA merely by explaining that the state authority considered possible modifications and rejected them...

The NYSLRS argues that "Title II . . . requires reasonable modification only of `rules, policies, or practices' — not state statutes," NYSLRS Br. 19, and seeks to distinguish Crowder, which contemplated the modification of a mandatory Hawaii State administrative regulation rather than a state statute, see Crowder, 81 F.3d at 1481-85, on this ground, NYSLRS Br. 21 n.6. But as a general rule, duly promulgated state regulations have the force of law for these purposes as do statutes. See, e.g., State v. Kotis, 91 Hawai'i 319, 331, 984 P.2d 78, 90 (1999) (Under Hawaii law, "[a]dministrative rules, like statutes, have the force and effect of law."); Allstate Ins. Co. v. Rivera, 12 N.Y.3d 602, 608, 911 N.E.2d 817, 820, 883 N.Y.S.2d 755, 758 (2009) (under New York law, "[a] duly promulgated regulation . . . has the force of law." (internal quotation marks omitted)). From the standpoint of the ADA's preemptive force, we can discern no reason to distinguish between the preemption of state statutes and state regulations. Cf. Crosby, 530 U.S. at 372 n.6 (noting that "a variety of state laws and regulations may conflict with a federal statute" and be preempted). And for the reasons discussed above, we do not read the ADA to prohibit reasonable modifications to state statutes when appropriate.` (Mary Jo C. v. New York State and Local Retirement Sys., No. 11-2215 [2d Cir. 2013])

"...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)

"...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)

The Department of Justice offers the following pertaining to undue burden and fundamentally altering anything, 42 U.S.C. § 12182(b)(2)(A)(ii) and 42 U.S.C. § 12182(b)(2)(A)(iii);

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."

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; New York State Rifle & Pistol Association, Inc. v. Bruen, 597 U.S. 1 establishes that "historical tradition" is a means in which law can be determined; and,
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); and,
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

United States Constitution, Art. I § 4, cl. 1 Pertains to Senator and Representatives, not the President of the United States of America; "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

-Mathew Tyler

(1) https://www.ada.gov/resources/title-ii-primer/

On Mon, Mar 25, 2024 at 1:42 PM O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> wrote:

> Good afternoon Mr. Tyler,
>
> I fully explained the Secretary of State's reasoning in my prior letter to you. As explained in greater detail in that letter, New Hampshire law does not require you to personally physically collect the signatures required by

the nominating papers process, and you have offered no justification for how your claimed disability could possibly prevent you from having campaign employees or volunteers collect signatures on your behalf—which is how candidates with substantial support meet the nominating papers process requirements. Nor have you attempted to address the case law rejecting claims from candidate-plaintiffs that the ADA requires an accommodation from ballot access signature requirements.

Although you appear to disagree with the Secretary of State's decision, you make no effort to address the legal reasoning set forth in my letter. I am not going to engage in an extended back-and-forth with you just because you disagree with the Secretary of State's decision. I encourage you to seek the advice of counsel who has experience in this area of law.

Take care,

Brendan

Brendan A. O'Donnell

Election Law Unit Chief

New Hampshire Department of Justice

1 Granite Place, Concord, NH 03301

brendan.a.odonnell@doj.nh.gov

Telephone: 603-271-3658

From: Mathew Tyler <**********>
Sent: Friday, March 22, 2024 11:28 AM
To: O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
Cc: Mathew Tyler <**********>; DOJ-Election Law <electionlaw@doj.nh.gov>
Subject: Re: March 1, 2024 Request for Accommodation

Mr. O'Donnell,

How do you figure that the cited laws don't entitle me, a qualified individual with a disability to accommodations? 28 C.F.R. § 35.130(7)(i). Please explain.

1. The State is excluding me from participation, 28 CFR § 35.130(a); and,
2. The State is failing to furnish auxiliary aids/services as required by 28 C.F.R. § 35.160(b)(1); and,
3. The services are not being offered in the "...most integrated setting appropriate to the ***needs of the individual***", 42 U.S.C. § 12182(b)(1)(B); and,
4. The administration is being done in a manner that discriminates on the basis of disability and perpetuates disability discrimination, 42 U.S.C. § 12182(b)(1)(D); and,

5. The imposition of eligibility is screening out a qualified individual with a disability, 42 U.S.C. § 12182(b)(2)(A)(i); and,
6. The State is failing to take steps that may be necessary to "...ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services," 42 U.S.C. § 12182(b)(2)(A)(iii); and,

7. "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)

8. "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)

Non ADA cases that establish the requirement is unconstitutional;

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

> > > > 5. "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)

What's more, the State of NH has still failed to show that my request would cause an undue burden or fundamentally alter anything as required by 42 U.S.C. § 12182(b)(2)(A)(ii) and 42 U.S.C. § 12182(b)(2)(A)(iii); as such the State is depriving me of due process and equal protection rights. The Department of Justice offers the following 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."

-Mathew Tyler

On Fri, Mar 22, 2024 at 5:58 AM O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov> wrote:

> Good morning Mr. Tyler,
>
> I read your prior e-mails to Attorney Fitch. I also reviewed the laws that you cited. None of that supports your argument that you are entitled to an accommodation from the signature requirement of the nomination papers process.
>
> As I explained in my letter to you, no court has recognized the appropriateness of the accommodation you seek, and multiple courts have rejected claims that a candidate-plaintiff was entitled to an accommodation from signature requirements for access to ballots as a candidate.

Accordingly, if you want to have your name placed on the State General Election ballot through the nominating papers process, you and all of the campaign workers and volunteers acting on your behalf must comply with all statutory requirements.

Sincerely,

Brendan

Brendan A. O'Donnell

Election Law Unit Chief

New Hampshire Department of Justice

1 Granite Place, Concord, NH 03301

brendan.a.odonnell@doj.nh.gov

Telephone: 603-271-3658

From: Mathew Tyler <**********>
Sent: Thursday, March 21, 2024 8:43 PM
To: Tekin, Jill <Jill.Tekin@doj.nh.gov>
Cc: **********; O'Donnell, Brendan <Brendan.A.Odonnell@doj.nh.gov>
Subject: Re: March 1, 2024 Request for Accommodation

Ms. Tekin,

In terms of the ADA, State laws are as inconsequential as they are irrelevant as conflicting State laws are subordinate and thus precluded by the "Supremacy Clause" to the US Constitution (Article 6, clause 2 to the US Constitution [1]).

As you didn't seem to receive or read my email to Orville B. "Bud" Fitch II, unless Honest services fraud (18 U.S.C. § 1346) and/or obstruction of justice? I have attached it. Please read it and what is cited. My response starts on page three of the attached PDF. In my response I provide multiple Department of Justice guidelines for interpreting ADA requests for reasonable accommodations, federal laws which supersede and preclude conflicting state law, cases for ADA and non ADA matters:

"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)

I have also attached a letter from my physician for me being excused from jury duty. I have made the statement under penalty of perjury too. How much more must I demonstrate that I am a qualified individual with a disability to you? When the Department of Justice establishes, "Public entities may not ask about the nature or extent of an individual's disability,"(2)

The Department of Justice via ADA.gov provides an information line(3) for you;

ADA Information Line

Talk to us at 800-514-0301 | 1-833-610-1264 (TTY)

M, W, F: 9:30am - 12pm and 3pm - 5:30pm ET

Tu: 12:30pm - 5:30pm ET, Th: 2:30pm - 5:30pm ET

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

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

Here are the laws I've cited in my previous email so that maybe you will actually read them;

42 U.S.C. § 12131(2)
42 U.S.C. § 12102(1)(A)
42 U.S.C. § 12102(1)(B)

28 C.F.R. § 35.130(d)

28 C.F.R. § 35.149
28 C.F.R. § 35.160(b)
28 C.F.R. § 35.160(c)
28 C.F.R. § 35.130(b)(1)
28 C.F.R. § 35.130(b)(2)
28 C.F.R. § 35.130(b)(3)
28 C.F.R. § 35.130(b)(6)
28 C.F.R. § 35.130(b)(7)
28 C.F.R. § 35.130(b)(8)
42 U.S.C. § 1983
42 U.S.C. § 12101(a)(7)
42 U.S.C. § 12101(b)
42 U.S.C. § 12103(1)(D)
42 U.S.C. § 12182(b)(1)(A)(i)
42 U.S.C. § 12182(b)(1)(A)(ii)
42 U.S.C. § 12182(b)(1)(A)(iii)
42 U.S.C. § 12182(b)(1)(B)
42 U.S.C. § 12182(b)(1)(C)
42 U.S.C. § 12182(b)(1)(D)
42 U.S.C. § 12182(b)(1)(E)
42 U.S.C. § 12182(b)(2)(A)(i)
42 U.S.C. § 12182(b)(2)(A)(ii)
42 U.S.C. § 12182(b)(2)(A)(iii)

18 U.S.C. § 249
18 U.S.C. § 245
18 U.S.C. § 245(b)(1)(A)
18 U.S.C. § 245(b)(1)(B)
18 U.S.C. § 245(b)(1)(E)

18 U.S.C. § 241
18 U.S.C. § 242

42 U.S.C. § 12132
28 C.F.R. § 35.130(a)

42 U.S.C. § 12132
28 C.F.R. § 35.130(b)(1)

-Mathew Tyler

[1] https://en.wikipedia.org/wiki/Supremacy_Clause

(2) https://www.ada.gov/resources/title-ii-primer/

(3) https://www.ada.gov/infoline/

On Thu, Mar 21, 2024 at 11:48 AM Tekin, Jill <Jill.Tekin@doj.nh.gov> wrote:

> Good afternoon,
>
> Please see the attached, regarding the above.
>
> Thank you.

Sincerely,

Jill Tekin

Investigative Paralegal

Civil Bureau

Attorney General's Office

1 Granite Place - South

Concord, NH 03301-6397

Phone No: (603) 271-1264

Fax No: (603) 271-2110

Jill.Tekin@doj.nh.gov

Mathew Tyler <**********> Mon, Apr 15, 2024 at 11:58 AM
To: AttorneyGeneral@doj.nh.gov

Violation of civil rights, disability discrimination, by New Hampshire. 2 of 3. Request for criminal prosecution and promulgation of federal policy

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[1] https://en.wikipedia.org/wiki/Supremacy_Clause

(2) https://www.ada.gov/resources/title-ii-primer/

(3) https://www.ada.gov/infoline/

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