



# 2019 CALIFORNIA RULES OF COURT

## **Rule 1.100. Requests for accommodations by persons with disabilities**

### **(a) Definitions**

As used in this rule:

- (1) "Persons with disabilities" means individuals covered by California Civil Code section 51 et seq.; the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); or other applicable state and federal laws. This definition includes persons who have a physical or mental medical condition that limits one or more of the major life activities, have a record of such a condition, or are regarded as having such a condition.
- (2) "Applicant" means any lawyer, party, witness, juror, or other person with an interest in attending any proceeding before any court of this state.
- (3) "Accommodations" means actions that result in court services, programs, or activities being readily accessible to and usable by persons with disabilities. Accommodations may include making reasonable modifications in policies, practices, and procedures; furnishing, at no charge, to persons with disabilities, auxiliary aids and services, equipment, devices, materials in alternative formats, readers, or certified interpreters for persons who are deaf or hard-of-hearing; relocating services or programs to accessible facilities; or providing services at alternative sites. Although not required where other actions are effective in providing access to court services, programs, or activities, alteration of existing facilities by the responsible entity may be an accommodation.

*(Subd (a) amended effective July 1, 2017; adopted as subd (b) effective January 1, 1996; previously amended effective January 1, 2006, amended and relettered effective January 1, 2007.)*

### **(b) Policy**

It is the policy of the courts of this state to ensure that persons with disabilities have equal and full access to the judicial system. To ensure access to the courts for persons with disabilities, each superior and appellate court must delegate at least one person to be the ADA coordinator, also known as the access coordinator, or designee to address requests for accommodations. This rule is not intended to impose limitations or to invalidate the remedies, rights, and procedures accorded to persons with disabilities under state or federal law.

*(Subd (b) adopted effective January 1, 2007.)*

### **(c) Process for requesting accommodations**

The process for requesting accommodations is as follows:

- (1) Requests for accommodations under this rule may be presented ex parte on a form approved by the Judicial Council, in another written format, or orally. Requests must be forwarded to the ADA

coordinator, also known as the access coordinator, or designee, within the time frame provided in (c)(3).

- (2) Requests for accommodations must include a description of the accommodation sought, along with a statement of the medical condition that necessitates the accommodation. The court, in its discretion, may require the applicant to provide additional information about the medical condition.
- (3) Requests for accommodations must be made as far in advance as possible, and in any event must be made no fewer than 5 court days before the requested implementation date. The court may, in its discretion, waive this requirement.
- (4) The court must keep confidential all information of the applicant concerning the request for accommodation, unless confidentiality is waived in writing by the applicant or disclosure is required by law. The applicant's identity and confidential information may not be disclosed to the public or to persons other than those involved in the accommodation process. Confidential information includes all medical information pertaining to the applicant, and all oral or written communication from the applicant concerning the request for accommodation.

*(Subd (c) amended effective July 1, 2017; previously amended effective January 1, 2006, and January 1, 2007.)*

#### **(d) Permitted communication**

Communications under this rule must address only the accommodation requested by the applicant and must not address, in any manner, the subject matter or merits of the proceedings before the court.

*(Subd (d) amended effective January 1, 2006.)*

#### **(e) Response to accommodation request**

The court must respond to a request for accommodation as follows:

- (1) In determining whether to grant an accommodation request or provide an appropriate alternative accommodation, the court must consider, but is not limited by, California Civil Code section 51 et seq., the provisions of the Americans With Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.), and other applicable state and federal laws.
- (2) The court must promptly inform the applicant of the determination to grant or deny an accommodation request. If the accommodation request is denied in whole or in part, the response must be in writing. On request of the applicant, the court may also provide an additional response in an alternative format. The response to the applicant must indicate:
  - (A) Whether the request for accommodation is granted or denied, in whole or in part, or an alternative accommodation is granted;
  - (B) If the request for accommodation is denied, in whole or in part, the reason therefor;
  - (C) The nature of any accommodation to be provided;
  - (D) The duration of any accommodation to be provided; and
  - (E) If the response is in writing, the date the response was delivered in person or sent to the applicant.

*(Subd (e) amended effective January 1, 2010; previously amended effective January 1, 2006, and January 1, 2007.)*

### **(f) Denial of accommodation request**

A request for accommodation may be denied only when the court determines that:

- (1) The applicant has failed to satisfy the requirements of this rule;
- (2) The requested accommodation would create an undue financial or administrative burden on the court; or
- (3) The requested accommodation would fundamentally alter the nature of the service, program, or activity.

*(Subd (f) amended effective January 1, 2007; previously amended effective January 1, 2006.)*

### **(g) Review procedure**

- (1) If the determination to grant or deny a request for accommodation is made by nonjudicial court personnel, an applicant or any participant in the proceeding may submit a written request for review of that determination to the presiding judge or designated judicial officer. The request for review must be submitted within 10 days of the date the response under (e)(2) was delivered in person or sent.
- (2) If the determination to grant or deny a request for accommodation is made by a presiding judge or another judicial officer, an applicant or any participant in the proceeding may file a petition for a writ of mandate under rules 8.485-8.493 or 8.930-8.936 in the appropriate reviewing court. The petition must be filed within 10 days of the date the response under (e)(2) was delivered in person or sent to the petitioner. For purposes of this rule, only those participants in the proceeding who were notified by the court of the determination to grant or deny the request for accommodation are considered real parties in interest in a writ proceeding. The petition for the writ must be served on the respondent court and any real party in interest as defined in this rule.
- (3) The confidentiality of all information of the applicant concerning the request for accommodation and review under (g)(1) or (2) must be maintained as required under (c)(4).

*(Subd (g) amended effective January 1, 2010; previously amended effective January 1, 2006.)*

### **(h) Duration of accommodations**

The accommodation by the court must be provided for the duration indicated in the response to the request for accommodation and must remain in effect for the period specified. The court may provide an accommodation for an indefinite period of time, for a limited period of time, or for a particular matter or appearance.

*(Subd (h) amended effective January 1, 2006.)*

*Rule 1.100 amended effective July 1, 2017; adopted as rule 989.3 effective January 1, 1996; previously amended effective January 1, 2006; previously amended and renumbered effective January 1, 2007; previously amended January 1, 2010.*

#### **Advisory Committee Comment**

**Subdivision (g)(2).** Which court is the "appropriate reviewing court" under this rule depends on the court in which the accommodation decision is made and the nature of the underlying case. If the accommodation decision is made by a superior court judicial officer and the underlying case is a limited civil, misdemeanor, or infraction case, the appropriate reviewing court is the appellate division of the superior court. If the accommodation decision is made by a superior court judicial officer and the case is anything other than a limited civil, misdemeanor, or infraction case, such as a family law, unlimited civil, or felony case, the appropriate reviewing court is the Court of Appeal. If the accommodation decision is made by a judicial officer of the Court of Appeal, the appropriate reviewing court is the California Supreme Court.