California Rules of Court, Rule 1.100
Providing Disability Accommodations While Court Is in Session

Staff of the Judicial Council developed this brief guide to help judicial officers respond to requests made while court is in session for accommodations under the Americans with Disabilities Act (ADA).

Who should the court contact for assistance? Every court is required to have an ADA Coordinator to assist in responding to accommodation requests. For this court's ADA Coordinator and contact information, see the **ADA Coordinator List**. If the court's ADA Coordinator is not available, please contact the court-wide coordinator, at 909-521-3652, for assistance.

Question	Answer	Reference
1. Who is entitled to receive an accommodation?	Any person with a disability who has business with the courts—including public observers of court activities or sessions—and has a physical or mental medical condition that limits one or more major life activity, has a record of such a condition, or is regarded as having such a condition.	Rule 1.100(a)(1), (2)
2. How may the request for accommodation be made?	Requests must be made at least five court days before the requested implementation date, but a court may waive this requirement to allow requests made in court. The process is purely administrative and there is no evidentiary hearing. Requests may be presented ex parte: • Orally, in chambers, unless confidentiality is waived (see #4 below), • By submitting *Request for Accommodations by Persons With Disabilities and Response* (form MC-410), or • In any other written format.	Rule 1.100(c)(1)
3. What information does the applicant need to include with an accommodation request to the court?	• A description of the accommodation sought and • A description of the medical condition that makes the accommodation necessary for the applicant to participate in or observe the proceeding or activity. • If necessary, the court may ask for supporting documentation and may need to continue the proceeding for a short time to allow time for the applicant to obtain this documentation.	Rule 1.100(c)(2)
4. What does the court do once a request for accommodation is made?	• The court may handle the request while in session or may immediately contact the ADA Coordinator for assistance. (In either case, the court should contact the court's ADA Coordinator to report the request for accommodation for record-keeping purposes.) • The court must first ask whether the applicant waives confidentiality and wishes to make the request in open court. **Requests for accommodations are not discussed in open court unless the person making the request waives the confidentiality provision in writing.** • If not, the court should take a brief recess to consider the request in chambers. The court should exercise extreme caution to limit the ex parte communication strictly to the accommodation request and preclude any discussion of the merits of the matter pending before the court. • The court MUST respond to and/or take action on the request; failing to respond to a request may result in reversal on appeal. (See *Biscaro v. Stern* (2010) 181 Cal.App.4th 702, discussed below.) If the court denies the request, in whole or in part, the court must provide a written explanation for the denial, including the date the written denial was provided.	Rule 1.100(b), (c)(1)–(2) Rule 1.100(c)(4) Rule 1.100(c)(4), (d) Rule 1.100(e); *Biscaro v. Stern;* Rule 1.100(e)(2)
5. Must the court keep the request confidential?	Yes, unless the applicant chooses to submit a written waiver of confidentiality or requests a continuance in the case that would involve the opposing party or parties. The opposing party may challenge a request for a continuance, after receiving notice from the requestor and an opportunity to view the request and attachments. The court must protect the requestor's privacy. For example, it may hold the hearing in camera, order the opposing party and counsel not to disclose the contents of the request and attachments, seal the record of the proceedings, and take other steps as the court deems appropriate. Otherwise, no information relating to the accommodation request shall be included in the official case record nor is it to be recorded by a court reporter.	Rule 1.100(c)(4); *Vesco v. Superior Court of Ventura*
6. What kinds of accommodations may the courts provide?	"Accommodations" are "actions that result in court services, programs, or activities being readily accessible to and usable by persons with disabilities." Accommodations must be reasonable and effective. The court has discretion in selecting services and programs to satisfy this requirement and may provide an alternative accommodation if it deems an applicant's preferred or requested choice of accommodations to be too burdensome, so long as the alternative operates to enable the applicant to access judicial services and programs.	Rule 1.100(a)(3)

(over)

Question	Answer	Reference
7. Are there situations where "reasonable accommodation" may require the court to grant a continuance?	Yes, in some cases, such as when a person with a mental disability is unable to proceed, a continuance may be required as the only reasonable accommodation under the circumstances. (See *In re Marriage of James M. & Christine C.* (2008) 158 Cal.App.4th 1261, discussed below.)	Rule 1.100(a)(3) *In re Marriage of James M. & Christine C.*
8. Can the court deny a request when the accommodation seems too intrusive on court time and management?	Depending on the individual request and circumstances, the court may deny the request if: • The applicant fails to satisfy the requirements of this rule, • Accommodating the request would create an **undue financial or administrative burden** on the court, or • The requested accommodation would **fundamentally alter** the nature of the service, program, or activity before the court.	Rule 1.100(f)(1)–(3) *In re Marriage of James M. & Christine C.*
9. Is the court required to provide an applicant with services or accommodations of a strictly personal nature?	The court is **not** obligated to provide an individual with accommodations of a personal nature, which may include but are not limited to: • A personal care assistant or caregiver • Assistance in eating, toileting, dressing • Free legal counsel • Free medical providers • Hearing aids • Prescription eyeglasses • Wheelchairs	Rule 1.100(a)(3)
10. What if a party or counsel uses a wheelchair but the court has no restrooms suitable for wheelchair users?	• The court may offer the use of alternate accessible restroom facilities elsewhere within the courthouse, such as in jury rooms, court chambers, or other administrative areas. • The court may transfer the case to another courthouse or branch that has suitable facilities. • In either situation, the court should also provide longer breaks and rest periods to allow enough time for the wheelchair user to travel between these restrooms and the courtroom. • The court maintains its authority to set the order of witnesses and otherwise administer trials and proceedings and may proceed with other witnesses or matters until the needed accommodation is available.	Rule 1.100(a)(3)

What is the ADA?

The Americans with Disabilities Act (ADA) is a federal civil rights statute (42 U.S.C. § 12101 et seq.) that requires all state and local governmental entities, including the courts, to accommodate court participants with disabilities. The ADA also requires the government to modify programs to integrate persons with disabilities, eliminate discriminatory practices or procedures, and provide alternatives for persons with communication limitations. California has amended or adopted legislation that is consistent with the ADA but provides additional accommodations and requires government to fully integrate persons with disabilities into society.

What is rule 1.100?

Rule 1.100 of the California Rules of Court allows court participants with disabilities, including lawyers, parties, witnesses, and jurors, to request reasonable accommodations from the court. *Request for Accommodations by Persons With Disabilities and Response* (form MC-410) is available to make the request. Oral requests in court are also permissible. **The court must address the request without an evidentiary hearing or the use of a court reporter.** The request is not made part of the case file and must be kept strictly confidential under all circumstances unless the applicant waives confidentiality in writing. The court's designated ADA Coordinator can also address requests for accommodation.

***In re Marriage of James M. and Christine. C.* (2008) 158 Cal.App.4th 1261**

In this case, the Court of Appeal upheld the rule 1.100 clause that there are only three grounds to deny a request for an accommodation based on disability: (1) undue burden on the court; (2) alteration of the nature of judicial services; or (3) failure to satisfy the requirements of the rule. Christine C., the self-represented applicant, had a history of physical and mental disabilities and was granted a number of pretrial continuances as accommodation on occasions when she was unable to proceed. On the second day of trial, she requested a trial continuance because she was hospitalized due to her bipolar disability. The superior court denied this request in error, and the entire judgment was reversed on appeal.

***Biscaro v. Stern* (2010) 181 Cal.App.4th 702**

Mr. Stern, the defendant in a family court case, asked the court to provide a neuropsychologist to assist him while in court. The superior court was found on appeal to have a mandatory duty, imposed by rule 1.100 of the California Rules of Court (and reinforced by *In re Marriage of James M. and Christine C.*), to adjudicate requests for accommodation under the Americans with Disabilities Act. The court's failure in this case to rule on the defendant's request for accommodation of his disability was found to be a structural error requiring reversal of the judgment.

***Vesco v. Superior Court of Ventura* (2013) 221 Cal.App.4th 275**

The defendant in a civil action requested a trial continuance as an accommodation for her disability. The trial court granted the request without involving Mr. Vesco, the plaintiff. The Court of Appeal found Mr. Vesco to be a person involved in the accommodation process. Therefore he must be given notice and an opportunity to view the request and medical records. The court must protect the requestor's privacy. For example, it may hold the hearing in camera, order the opposing party and counsel not to disclose the contents of the request and attachments, seal the record of the proceedings, and take other steps as the court deems appropriate.