



NEWS RELEASE

**New York State
Unified Court System**

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Court System Adopts New Rule to Ease Judicial Accommodations for People with Disabilities

NEW YORK—Chief Judge Rowan D. Wilson announced that the Court of Appeals has approved changes to Part 52 of the Rules of the Chief Judge, <https://ww2.nycourts.gov/rules/chiefjudge/52.shtml>, creating an important new procedure that authorizes judges presiding over a pending matter to entertain requests for disability accommodations on an *ex parte* basis (without notice to, and outside the presence of, the other party or parties in the case). The new rule—which aims to facilitate people in obtaining a disability accommodation without unnecessarily compromising their privacy—enables judges to consider *ex parte* disability accommodation requests without fear of violating their ethical obligations (see 22 NYCRR § 100.3 (B)(6)). The rule changes were adopted upon consultation with the Administrative Board of the Courts, comprising Chief Judge Wilson and the Presiding Justice of each of the Appellate Division’s four Judicial Departments.

The Americans with Disabilities Act (ADA) protects people from being discriminated against based on disability and guarantees people with disabilities an equal opportunity to participate in society. In accordance with Title II of the ADA, the court system is required to make its programs, services, and activities accessible to people with disabilities.

Accessibility can be achieved by making reasonable accommodations. Some accommodations, such as remote appearances, adjournments, and schedule changes, can only be provided by the judge presiding over a pending matter. These judicial accommodations are the subject of the new Part 52, which does not govern accommodations that can be provided by court managers and administrators, such as sign language interpretation, assistive listening devices, and Communication Access Realtime Translation (CART) reporting.

In accordance with Part 52, an *ex parte* application for a judicial accommodation must be kept confidential unless the court believes that consideration of the party's disability is necessary to reach a determination of the merits of the underlying matter, and that the disability is not otherwise part of (or likely to become part of) the record [Section 52(D)(1)]; or the court reasonably believes that granting the accommodation might be unduly prejudicial to a party's right to a fair and timely resolution of the matter [Section 52(d)2].

"The Unified Court System remains steadfast in its commitment to the pursuit of fair, equitable access to our courts and justice system for all New Yorkers, regardless of need or ability. The court system's adoption of the new Part 52 marks another step forward in our ongoing efforts to close the justice gap, serving to facilitate the reduction of physical, communication, and other barriers to justice confronting people with disabilities," said Chief Judge Wilson. "I am grateful to the Advisory Committee on Access for People with Disabilities, co-chaired by New York County Supreme Court-Civil Term Justice Carol Sharpe and, until recently, by retired Appellate Division, First Department Associate Justice Judith Gische, whose input was instrumental in effecting this rule change."

"Some people, particularly those with non-apparent disabilities—also referred to as invisible disabilities—strongly prefer to keep details about their disability private," said Chief Administrative Judge Joseph Zayas. "This new rule, spurred by the recommendations of the Advisory Committee on Access for People with Disabilities, creates a much-needed process for judges to consider accommodation requests in a way that both protects the privacy of individuals with disabilities and ensures that judges remain compliant with all ethical standards regarding *ex parte* communications with parties and attorneys."

"The new rule, which will serve to enhance access to the courts for attorneys, litigants, and witnesses with a physical, cognitive, or other disability, reaffirms the New York State Judiciary's resolve to make the promise of equal justice a reality," said First Deputy Chief Administrative Judge Norman St. George. "We are indebted to the Advisory Committee on Access for People with Disabilities for its ongoing guidance and assistance on the broad scope of issues impacting access to the courts for those with a disability, including the procedures for requesting accommodations."

"The rule is the result of years of hard work by the Committee. My Co-Chair, Justice Judith Gische (Ret.), and I, on behalf of the Advisory Committee on Access for People with Disabilities, thank Chief Judge Wilson, the Court of Appeals, and the Administrative Board for approving the rule, which now allows individuals with visible or invisible disabilities to make a request for ADA accommodations and for the judge to entertain the requests *ex parte*. Rule 52 of the Rules of the Chief Judge is sensible, balanced, fair, respects considerations of due process, and protects the privacy of people with disabilities," said Justice Sharpe.

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