

*State of New York  
Court of Appeals*



*Court of Appeals Hall  
Albany, New York 12207*

*Rowan D. Wilson  
Chief Judge*

ADMINISTRATIVE ORDER OF THE  
CHIEF JUDGE OF THE STATE OF NEW YORK

Pursuant to article VI, § 28(c) of the New York State Constitution and section 211 of the Judiciary Law, upon consultation with the Administrative Board of the Courts, and with the approval of the Court of Appeals of the State of New York, I hereby add, effective immediately, a new Part 52 of the Rules of the Chief Judge to read as follows:

PART 52. EX PARTE REQUESTS FOR JUDICIAL ACCOMMODATIONS

Section 52. Ex Parte Requests For Judicial Accommodations

(a) With respect to an accommodation that can be granted only by a judge or judicial officer, a person with a disability, as defined by the Americans with Disabilities Act (42 USC, ch 126, § 12101 *et seq.*), may apply for one on an ex parte basis. An ex parte application for a reasonable accommodation shall:

- (1) be in writing;
- (2) state the disability and explain how it limits the person's ability to meaningfully participate in the proceeding;
- (3) state the accommodation sought and explain why the accommodation is needed;

(4) in no manner refer to the subject matter or merits of the proceeding that is before the court in which the accommodation is sought;

(5) contain an acknowledgement that the requestor is aware that if upon reviewing the ex parte application the court finds that subsection (d)(1) of this Part applies to the request, some disability-related information will need to and shall be disclosed to other parties as a result of making the application, even if the application is withdrawn prior to being decided by the court; and

(6) as provided for by CPLR 2217(b), be accompanied by an affidavit stating the result of any prior application for similar relief and specifying the new facts, if any, that were not previously shown.

(b) An ex parte application for an accommodation under this rule may be made by: a party, subject, or attorney on their own behalf; an attorney on behalf of a party or subject; a party, subject, or attorney on behalf of a witness or other participant in the proceeding; or a person who has a court-designated legal role or relationship with respect to a party or subject, or is an attorney or paralegal providing a party or subject with limited-scope legal assistance, on behalf of the party or subject. Individuals who, because of a disability, are unable to put their request in written form may obtain help in doing so from court personnel.

(c) In its discretion and only as may be reasonably necessary to determine the application, the court may require the applicant to provide the court with additional information about the person's disability and how it limits participation in the proceeding.

(d) The ex parte application and all material submitted in support shall be kept confidential by the court and not be disclosed by the court to other participants in the proceeding or the public, except in the following limited circumstances and under the following conditions:

(1) the ex parte application or supporting material contains information about a party's disability that:

(i) the court believes is both germane to and necessary for the court to consider in determining the merits of the underlying matter before it; and

(ii) is not otherwise part of, nor likely to become part of, the record before it.

In this circumstance, disclosure by the court to other parties and counsel is required, but shall be limited to the existence of the application and the pertinent information, and shall not entitle any other party to be heard on the accommodation application itself; or

(2) the court has determined that the person for whom the accommodation is sought has a qualifying disability, and the accommodation being sought is an extension of time to submit papers, an adjournment, permission to participate remotely, or any other accommodation that, if granted, could potentially unduly prejudice the rights of another party to a fair or timely resolution of the matter. If the court reasonably believes that granting the requested accommodation will be unduly prejudicial, the court shall disclose only the fact that an ex parte ADA accommodation application has been made and the particular accommodation the application seeks. Information pertaining to the nature of the disability, including a general description of or any details about the type of disability and the limitations it imposes, shall not be disclosed.

Following disclosure, the court shall permit timely responding submissions by affected parties. The arguments raised shall be limited to whether the proposed accommodation would so intrude upon the rights of the opponent to a fair or timely resolution of the matter that the nature of a court proceeding would thereby be fundamentally altered; or

(3) confidentiality is waived in whole or part by the applicant.

(e) Once an ex parte accommodation application has been made pursuant to this Part, the court may, on an ex parte basis, engage in discussions with the applicant and/or the person for whom the accommodation is sought regarding the application. Such discussions shall be kept confidential by the court and not disclosed except as may be provided for in subsection (d)(1) of this Part.

(f) Provided that the ex parte application complies with the requirements of this rule and except for what has been disclosed pursuant to subsection (d)(1) of this Part, the court shall find good cause to direct that the written application and any supporting material be filed under seal.

(g) The court's decision to grant or deny, in whole or in part, the ex parte application shall be issued promptly and memorialized in a written order.

(1) The order shall:

(i) recite the accommodation(s) sought;

(ii) if the application is denied, in whole or in part, explain the reason(s) for denial;

(iii) if the application is granted, in whole or in part, state the accommodation(s) that will be provided and the duration of its provision; and

(iv) state the date upon which the order is provided to the applicant.

(2) The order shall not contain information about the person's disability or limitations it imposes unless such information is redacted and an unredacted copy is filed under seal. If no such information is contained in the order, all parties shall receive a copy. If any such information is contained in the order, the applicant shall be provided with both a redacted and unredacted copy of the order, but all other parties shall receive only a redacted copy.

(h) This rule shall only apply to requests for accommodations acted upon by a judge or judicial officer acting in a judicial capacity; it shall not apply to requests for accommodations acted upon by court administrators.

(i) This rule shall not preclude a party or attorney from making an oral or written application for an accommodation on notice.



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Chief Judge of the State of New York

Attest:   
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Clerk of the Court of Appeals

Dated: February 16, 2024

AO/01/24

