



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS
CHIEF ADMINISTRATIVE JUDGE



JOHN W. MCCONNELL, ESQ.
EXECUTIVE DIRECTOR

NANCY J. BARRY, ESQ.
CHIEF OF OPERATIONS

M E M O R A N D U M

June 17, 2020

To: Hon. George J. Silver
Hon. Vito C. Caruso

From: John W. McConnell 
Nancy Barry 

Subject: New Procedures for ADA Accommodation Requests

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Chief Administrative Judge Lawrence K. Marks recently approved for distribution a set of revised procedures for handling requests for accommodations of disabilities made by parties, attorneys, witnesses, and other court visitors in the trial courts of the Unified Court System (Exh. A). Developed under the supervision of the Chief Judge's Advisory Committee on Access for People with Disabilities, these procedures are intended to simplify the application process and facilitate swifter provision of appropriate accommodations to court users. In short, the revised guidelines provide that

- Accommodation requests, whether made in advance of, or on the day of a court appearance, and whether in-person, oral or written, should be forwarded to the Chief Clerk (in New York City) or the District Executive (outside New York City) for handling.

(An optional, online accommodation request form will be available for use by requestors later this year to facilitate advance notice requests.)

- Following receipt of an accommodation request, the Chief Clerk/District Executive will assess whether it addresses a judicial issue (e.g., an adjournment, additional time to submit papers, appearance by phone, trial breaks, etc.) or administrative accommodation (e.g., provision of assistive listening devices, use of Sign language interpreter, or relocation to a physically accessible courtroom, etc.). Judicial accommodations will be forwarded to the appropriate judge for resolution; administrative accommodations will be handled by the Chief Clerk/District Executive or their designee.

- If a judge receives an accommodation request by a court user appearing before her, and the request addresses a purely judicial accommodation, the judge should determine the request without referring it to the Chief Clerk or District Executive. Any aspect of a request made directly to the judge that involves an administrative accommodation should be referred to the Chief Clerk/District Executive for consideration and appropriate action.
- Chief Clerks and District Executives **must** consult with the Statewide ADA Coordinator before denying an accommodation request. When denying a request, a written Denial of Accommodation Form (web link) must be issued, with a copy sent to the Statewide ADA Coordinator. An administrative denial is subject to review within 10 days by the Statewide ADA Coordinator.

Further information on this procedure, as well as substantial additional information about the court system's commitment to assuring access to all, may be found at <http://ww2.nycourts.gov/Accessibility/index.shtml>.

Please note that each courthouse should have informational ADA posters, prominently displayed near courthouse entrances and on each floor, directing court users seeking accommodations to the Chief Clerk's office for assistance. If a courthouse within your jurisdiction does not have such signage, please notify the ADA Office.

Please distribute this memorandum and attachment to all persons who interact with the public and may be called upon to assist or provide information about accommodation procedures. Questions about the new procedure may be addressed to John Sullivan, Statewide ADA Coordinator (ajsullivan@nycourts.gov). And as always, thank you for your kind assistance in implementing this important court policy.

Attachment

c: Administrative Judges
 Hon. Rosalyn Richter
 Scott Murphy
 Linda Dunlap-Miller
 District Executives
 NYC Chief Clerks
 Chief Michael Magliano
 Carolyn Grimaldi
 Lucian Chalfen
 John Sullivan
 Barbara Zahler-Gringer

Guidelines for Handling Requests for Disability Accommodations (June 2020)

I. Categories of Disability Accommodation Requests

Requests for disability accommodations fall into three categories: judicial, administrative, or a combination of judicial and administrative. Identifying the type of request is important in order to determine how the request should be handled.

A. *Judicial requests* are for accommodations that only a judge – not a court manager – can grant or deny. Judicial requests typically seek an accommodation that involves the judge exercising authority over:

- the parties (e.g., to adjourn a case, or to appear by phone or video, or for more time to submit motion papers), or
- courtroom practices (e.g., to have someone other than an attorney sit beside a party; to take frequent breaks during the proceeding; to schedule the matter in the afternoon, rather than the morning), or
- the substance of the proceedings (e.g., a motion to be permitted to forego cross-examination, or to re-write a jury instruction).

B. *Administrative requests* are for accommodations that don't involve the judge's authority over the case and the parties. These types of requests usually involve:

- providing auxiliary equipment or services (e.g., sign language interpreters; assistive listening devices; CART reporting; or large print or Braille format documents), or
- asking court managers to vary usual court procedures (e.g., relocate a proceeding from an inaccessible courtroom to an accessible courtroom; permit the entry of a service animal into the courthouse; or assist with filling out forms).

C. In some cases, a person may be asking for a *combination of judicial and administrative accommodations*. In those instances, the judge (and only the judge) can determine whether to grant or deny the judicial accommodation requests, but the judge should not be asked to address the administrative accommodation request portion. In other words, responsibility for addressing these types of hybrid requests will be divided between the judge and non-judicial personnel.

II. Receipt of Disability Accommodation Requests

An accommodation request can be made orally or in writing. It can be communicated via e-mail, fax, phone, or in person. Although we ask people to bring their requests to our attention in advance of their court dates, sometimes the request isn't received until the person appears in court. Sometimes, non-judicial personnel are the first to receive the request, and sometimes the request isn't made until the court user is in front of the judge.