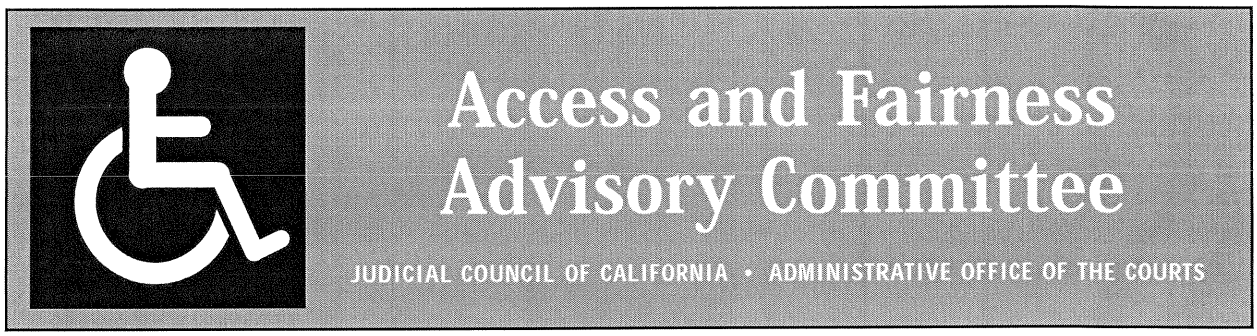
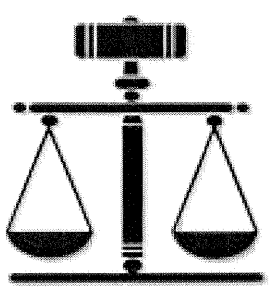
1998, Volume 1, No. 1

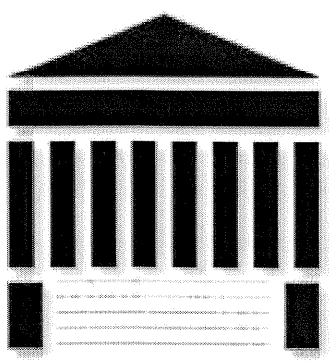


Persons With Disabilities: Q&A on Rule of Court 989.3

Do you have to go to court? Have you been called to be a witness at a trial? Have you received a jury summons? Do you want to watch court proceedings? If you answer "yes" to any of these questions, then you should know about a rule of court that can assist you.

Rule 989.3 of the California Rules of Court requires that all state courts must "assure that qualified individuals with disabilities have equal and full access to the judicial system." The word *qualified* is defined as a person who has a disability, has a record of a disability, or is regarded as having a disability. According to the rule, *access* can mean physical accommodation to go into and move about buildings and use restrooms. *Access* can also mean full participation in, and understanding of, the proceedings with the help of technology and services to aid communication with the courts.





To provide both kinds of access, the court is responsible for making accommodations available.

Accommodations in a court can be many things. Possibilities include providing forms in braille or real-time transcription. Because people and disabilities are unique, many more accommodations are possible than are included in the rule's list.

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It may also be available in alternative formats.

Americans with Disabilities Act

The Americans with Disabilities Act (ADA), a federal civil rights statute, requires all state and local governmental entities, including the courts, to accommodate the needs of all persons with disabilities. The ADA benefits people who have an interest in court activities, programs, and services.

The Judicial Council of California, the policy-making body for the courts, adopted rule 989.3 to implement the ADA in the state court system. Following are some questions commonly asked about rule 989.3:

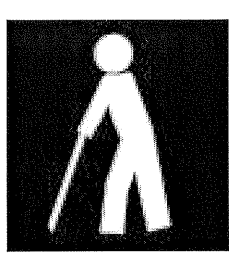
What is rule 989.3?

Rule 989.3 is a state court rule that allows lawyers, parties, witnesses, jurors, or other people with a disability to request confidentially accommodations from a court. Rule 989.3 became effective on January 1, 1996.

Who can get an accommodation?

Individuals can receive accommodations if they have a disability, have a record of a disabling condition, or are regarded as having a disability that limits one or more major life activities.

Major life activities include caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

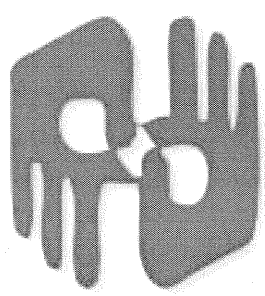


List of Accommodations*

Accommodation(s) may include:

- ❑ Making reasonable modifications to policies, practices, and procedures (e.g., alternative time schedules, telephonic conferences).
- ❑ Alteration of existing facilities (e.g., making a restroom wheelchair accessible) or acquiring or constructing additional facilities.
- ❑ Relocation and provision of a service or program to an alternate accessible site.
- ❑ Providing auxiliary aids and services not limited to equipment and devices such as assistive listening devices, TTY, braille, large print, and qualified interpreters and readers.

**From Cal. Rules of Court, rule 989.3(b)(3).*



Examples of disabilities include mobility or other motor impairments, psychological and mental illness, vision impairments, hearing impairments, and environmental sensitivities. Some temporary disabilities may also qualify.

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How do I get an accommodation? What is Form MC-410? Can I get help filling out Form MC-410? What if I can't read the form?

You can request an accommodation by filling out Form MC-410, available from the clerk's office or from the courtrooms. The form and instructions should be available in alternative formats, like braille and large print, upon request. If the form is unavailable, you can make a request for an accommodation in writing or orally to the court or other designated personnel.

You can make a request at any time, although you should give the court at least 5 court days' notice whenever possible. If you are unable to fill out the form and you need assistance, you may request a clerk or other court personnel to assist you in writing down the information. All the information you supply is confidential. You may wish to attach documents such as a doctor's letter to the form.

After the form is completed, you will sign it under penalty of perjury, which means that everything you state in the form is true under oath, to the best of your knowledge.

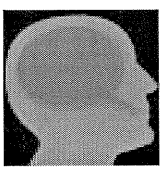
What can court personnel ask about my disability? Do I have to let everyone know about my medical problems?

Under most circumstances, the court or its employees will not need additional medical or other personal information.

Rule 989.3 allows the court to request further information. This means that only those persons in the court who need to know about your disability in order to make a decision or provide you with an accommodation will learn the details of your request and the personal information that you give.

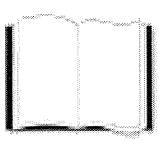
Do I have a responsibility to inform the court that I need an accommodation?

Yes. It is your responsibility to contact the courts to request accommodations that would best suit your situation. The courts have an obligation to inform the public of the availability of accommodations. However, if no accommodation is requested, the courts are not required to provide one.



What if the court suggests a different accommodation? Do I have to accept alternative accommodations?

The court can offer a different or alternative accommodation. For example, if a juror is blind and requests written material introduced at trial to be transcribed in Braille, the court may consider alternatives, such as providing a reader or tape-recorded transcripts of the written material. The court itself can offer an accommodation. The court is not required to provide the *best* accommodation but must provide an *effective* one.



You don't have to accept the alternative accommodation. The courts are required to find an accommodation that will effectively allow you full participation in the court proceedings. The accommodation may not be

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your first or preferred choice. However, if you make a request for another type of accommodation, the court will consider your request.

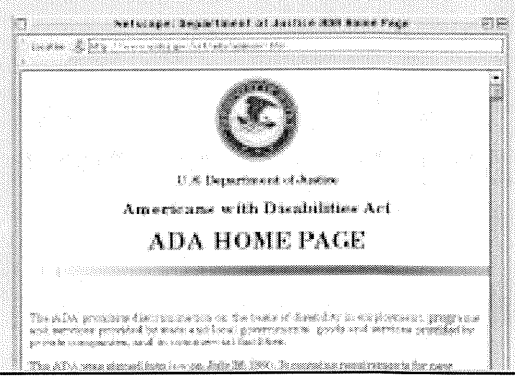
Can the court deny my request?

Yes, the court can deny your request. If the court denies your request and you disagree with the decision for a preferred accommodation or the court provides an accommodation that you believe to be inadequate, you may file an appeal. The appeal process is explained in rule 989.3. To be effective, the denial must be in writing and state specific grounds within rule 989.3 for the denial.

Resources Available

U.S. Department of Justice/ ADA Homepage

- Full text of the Americans With Disabilities Act (ADA) (42 U.S.C. § 12101 et seq.) is located at: http://www.usdoj.gov/crt/ada/statute.html.
- The ADA homepage (a part of the U.S. Department of Justice site) is located at: http://www.usdoj.gov/crt/ada/adahom1.htm.



Please Note

The Judicial Council of California adopts rules of court, provides policy direction to the courts, and presents recommendations to the Governor and the Legislature concerning court practice, procedure, and administration. As its staff agency, the Administrative Office of the Courts provides support to the council. This document is not intended to be a full statement of the law governing persons with disabilities and is not intended to be (or to substitute for) legal advice.

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☐ FORM TO BE KEPT CONFIDENTIAL (if box checked)

APPLICANT *(name)*:	*FOR COURT USE ONLY*
APPLICANT IS: ☐ Witness ☐ Juror ☐ Attorney ☐ Party ☐ Other **Person submitting request** *(name)*: APPLICANT'S ADDRESS:	
TELEPHONE NO.: **NAME OF COURT:** STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:	
BRANCH NAME: **NAME OF JUDGE:**	
CASE NAME:	
REQUEST FOR ACCOMMODATIONS BY PERSONS WITH DISABILITIES and ORDER	CASE NUMBER:

Applicant requests accommodation under California Rules of Court, rule 989.3, as follows:

1. Type of proceeding: ☐ Criminal ☐ Civil
2. Proceedings to be covered *(e.g., bail hearing, preliminary hearing, particular witnesses at trial, sentencing hearing)*:
3. Dates accommodations needed *(specify)*:
4. Impairment necessitating accommodations *(specify)*:
5. Type of accommodations *(be specific)*:
6. Special requests or anticipated problems *(specify)*:
7. I request that my identity ☐ be kept CONFIDENTIAL ☐ NOT be kept CONFIDENTIAL.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

. . . . . (TYPE OR PRINT NAME)

▶ _____ (SIGNATURE OF APPLICANT)

ORDER

☐ The request for accommodations is GRANTED because
- ☐ the applicant satisfies the requirements of the rule.
- ☐ it does not create an undue burden on the court.
- ☐ it does not fundamentally alter the nature of the service, program, or activity.
- ☐ Alternate accommodations granted *(specify)*:

☐ The request for accommodations is DENIED because
- ☐ the applicant does not satisfy the requirements of the rule.
- ☐ it creates an undue burden on the court.
- ☐ it fundamentally alters the nature of the service, program, or activity.

(Specify):

Date:

_____ JUDGE