

January 25, 2013

 **1-17-13 DRAFT FOR CIRCULATION TO LAAC,**

Attn: Invitations to Comment **SCDLS, ACCESS COMMISSION & IOLTA OFFICES**

Administrative Office of the Courts

455 Golden Gate Avenue

San Francisco, CA 94102

Re: Comments of IOLTA-Funded California Disability Advocacy Organizations re

Proposed Mandatory E-Filing Rules to Implement AB 2073 - Item Number: W13-05

Submitted via Electronic Mail to *invitations@jud.ca.gov*

Dear Administrative Office of the Courts **[Is this the right salutation?]**:

 On behalf of the undersigned California-based, IOLTA-funded non-profit disability rights advocacy organizations,[[1]](#footnote-1) we applaud the Court Technology and Civil and Small Claims Advisory Committees’ efforts to craft appropriate uniform rules to address issues related to electronic filing and service in the state’s trial courts. We appreciate this opportunity to offer the attached insights and recommendations in response to the Invitation to Comment (“Invitation”).

Respectfully submitted,

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**Appendix A** (description of signatory organizations)

**General Principles & Recommendations**

 We begin by highlighting the following general principles and recommendations, which should undergird any Judicial Council e-filing and e-service rule:

♦ **Endorsement of other legal services community comments**

We are aware of the simultaneously submitted public comments being offered by the Legal Aid Association of California (LAAC) regarding the general impact of e-filing on legal services-eligible Californians.[[2]](#footnote-2) We are also aware of comments submitted by the State Bar of California Standing Committee on the Delivery of Legal Services (SCDLS); comments submitted by the California Commission on Access to Justice; and other legal services community comments specifically addressing issues of language access, and limited scope representation **[keep or omit each letter reference as relevant to final submissions]**. We note our agreement with the insights and recommendations offered in those comments, and urge the Judicial Council’s close attention to them. We write separately here to focus on the disability access issues within the scope of our collective expertise.[[3]](#footnote-3)

 ♦ **Recognition of multi-faceted impact of technology on disability access**

We commend the Judicial Council for recognizing that technological advances — including the availability of e-filing and e-service — can be highly beneficial to many attorneys and litigants.[[4]](#footnote-4) Moreover, because they are disproportionally eligible for critical public cash, housing and health care benefits, those with lower incomes often have both more, and more important, interactions with government systems. In addition to turning to the courts for the myriad reasons that might bring any litigant before the bench, they are more likely to need to draw on the interpretive and enforcement powers of the state judiciary to secure and maintain those benefits. Wider availability of e-filing and e-service options can thus be a great boon to lower income constituencies.

In a similar vein, in the upcoming rule the Judicial Council should explicitly recognize that technological advances can be highly beneficial for people with disabilities. Again, interactions with government and the state courts are often heightened for the disability community, which is disproportionately lower income, and eligible for specific government benefits due to disability. Persons with impairments that preclude or limit travel, limit functioning to certain times of day (e.g., due to endurance issues or effect of medication), or require extended or repeated information review can greatly benefit from automated services, electronic access, and the 24/7 cyber world. Indeed, there are many instances where use of technology is necessary — and therefore legally required under the disability rights laws discussed below — to eliminate disability access barriers.

However, unless designed and implemented with attention to a wide range of needs, new technologies can also create new access barriers. Again, this is true for the population at large, as well as for various specific subpopulations.[[5]](#footnote-5) New technologies have clear physical, policy and electronic access implications for people with disabilities. They raise specific variable concerns for people with mobility, manual, sensory and cognitive disabilities. There will be people who either cannot afford — or cannot find, because it does not yet exist — computer technology with the added adaptive features necessary to make it usable in light of to a particular individual disabilities.

The Judicial Council — and the implementing courts — are thus faced with a nuanced reality. Depending on the particular circumstance, attorney or litigant involved, true disability access requires both the availability of and right to use technology when it eliminates barriers, and the right to bypass technology when it creates barriers. The rule to be issued here must reflect both of these equally critical aspects of access.[[6]](#footnote-6)

♦ **Need to explicitly recognize statutory disability rights mandates**

We commend the Invitation for demonstrating the Committees’ awareness of the significance of e-filing and e-service issues, particularly for self-represented litigants, and the need to proceed thoughtfully in addressing these issues. To help underscore that significance, we urge the Judicial Council to explicitly identify federal[[7]](#footnote-7) and state[[8]](#footnote-8) statutory disability civil rights mandates in the upcoming uniform rules.

These mandates — which include entitlements to physical and communication access, and reasonable policy modification[[9]](#footnote-9) — should be explicitly acknowledged and reflected in the specifics of any rules ultimately adopted.[[10]](#footnote-10)

**♦ Need to coordination and align with CRC 1-100**

For consistency with previously implemented legal mandates, and to facilitate practical administration, the uniform rules should explicitly coordinate and align with existing California Rule of Court (CRC) 1-100. This existing rule states and implements the policy of the California courts to “ensure that persons with disabilities have equal and full access to the judicial system.” CRC 1.100(b). It establishes procedures for persons with disabilities to request accommodation,[[11]](#footnote-11) and broadly defines “accommodation” to include a range of adjustments likely to be of equal relevance to e-filing and e-service requirements. CRC 1.100(a)(3).[[12]](#footnote-12) CRC 1-100 and related case law establishes that the California courts have an obligation to process, consider and clearly respond to accommodation requests.[[13]](#footnote-13) Such requests may only be denied for specifically enumerated reasons.[[14]](#footnote-14) There is also a review procedure to ensure that initial accommodation decisions comport with specified entitlements and requirements.[[15]](#footnote-15)

**♦ Need to ensure confidentiality of disability-related information**

 We again reference and endorse the insights and recommendations of other commenters as to general confidentiality concerns of relevance to all attorneys and litigants (particularly those who must rely on shared public computers for electronic access). But in addition, we emphasize the need for any e-filing and e-service protocols to reflect and preserve specific statutory privacy protections for disability-related information. Here again the rule should be coordinated and aligned with the already existing provisions of CRC 1.100.[[16]](#footnote-16)

**♦ Need to recognize *physical* and *policy* — as well as *electronic* — components**

**of technology access**

As noted by other commenters, there is a well-documented “digital divide,” which refers to the lack of access that lower-income households have to various kinds of communication and information technologies. Because people with disabilities are disproportionately lower income, they are clearly affected by this general “divide,” which has profound implications for equal access to the wide range of life activities that increasingly involve or depend on new technologies.

In particular, many low-income people with disabilities cannot afford personal computers, and thus will need to rely on shared, publically available computers to accomplish e-filing, or receive e-service.[[17]](#footnote-17) For these constituencies, it is important to recognize that technology access involves not just *cyberspace* (and the software used to reach it), but also *physical* space, and the *policies* that govern such space. Certainly the public and private entities offering shared public computers have their own legal obligations to ensure the accessibility of those computers.[[18]](#footnote-18) But the rule — and the implementing courts — must also recognize that California courts have their own *independent* legal obligations to ensure the accessibility of shared public computers, to the extent that they rely on them as an integral part of the delivery of court programs involving e-filing and e-service activities.[[19]](#footnote-19)

 The e-filing and e-service rule must anticipate that many litigants will turn to shared public computers available at public libraries, public and private law libraries, court self-help centers, and legal services offices. As judicially-related e-communication becomes more prevalent (and particularly to the extent mandated), courts may also move to providing shared public computers in clerk’s offices or court buildings. All of these sites must be anticipated by the rule.

 **♦ Physical access concerns**

It is critically important for any e-filing and e-service rule to recognize that the following *location* and *hardware-related* features of the buildings housing shared public computers are necessary to ensure disability-accessibility:

* proximity to disability-accessible public transit and paratransit service areas;
* availability of disability-accessible parking;
* unobstructed, disability-accessible path-of-travel from the outside of the building to the location of the shared public computer; and
* unobstructed, disability-accessible workspace around the shared public computer (e.g., sufficient under-table clearance for persons using wheelchairs, computer screen sight-lines accessible to persons using wheelchairs, and appropriate positioning of hardware for people with limited manual dexterity).

 ♦ **Policy access concerns**

 The rule must also recognize the ways in which the following related *policies* are necessary to ensure disability-accessibility:

* sufficient open hours on different days of the week, and different hours of the day, (particularly important to people with disabilities that affect ability to undertake tasks at certain times (e.g. morning medication grogginess); people with time-restricted access to accessible transit; and people with cognitive disabilities who require extended or repeated access to e-communications);
* availability and willingness of staff to remove obstructions and reposition computer hardware as needed; and
* availability and willingness of staff to modify other standard rules, practices or protocols (e.g., permitting extended or repeated access to computers; permitting presence of companions or service animals; accepting alternative forms of identifications for people whose disabilities preclude obtaining a drivers’ license).

 **♦ Electronic access concerns**

In addition, the rule must ensure the disability-accessibility of the *electronic* aspects of the e-filing and e-service experience. This includes all relevant software and website features, and electronic interfaces, and needs to encompass all of the disability-specific access concerns highlighted below (e.g., ensuring compatibility with visual captioning of aural content, amenability to review via screen reader technology, ability to bypass visual “CAPTCHA challenge-response tests, ability to bypass “timeout” barriers that penalize those not able to respond quickly to instructions).

♦ **Need to decouple e-filing and e-service**

The access issues that arise in connection with e-filing and e-service are sufficiently distinct and unique that they should be decoupled in the rule. E-filing involves affirmative contact with the court at the initiation of attorneys and litigants. In contrast, e-service may occur at the initiation of the court or opposing parties. In contrast to e-filers, who can choose the date and time of their communications, e-service recipients are not necessarily on notice that the communication will be coming or available at a specific date or time. Such uncertainty creates particular barriers for those who must rely on shared public computers. There may well be instances where an attorney or litigant would benefit from an e-filing option, but will not be able to successfully access e-service in an efficient or timely manner. Additionally, there may be instances where an attorney or litigant can effectively access e-service, but will have barriers to e-filing (for example, parties with home computers may be set up to receive and review incoming documents, but lack the ability to submit outgoing documents due to disability-specific access barriers of the kind identified below). The rule should ensure that e-filing and e-service obligations and entitlements are addressed separately, so that where appropriate an attorney or litigant can e-file but avoid e-service, or vice versa, as needed.

 ♦ **Strong recommendation for exclusively “opt-in” process**

We again reference and endorse the insights and recommendations of other commenters as to the importance of implementing an “opt-in” (rather than “opt-out”) process. This is particularly important to attorneys and litigants with disabilities, given the additional unique physical, policy and technology issues that affect disability-accessibility. ***We strongly urge the Judicial Council to avoid a “mandatory opt-out” requirement.***

**♦ Need for appropriate pre-conditions for any mandatory “opt-out” process**

At a minimum, if any type of “mandatory opt-out” requirement is still contemplated, it should be issued and implemented *only* under the following conditions:

-it should be rolled out in stages, beginning with “attorneys only”, with a specified timeline and process in place to evaluate the first stage experience before it is expanded;

-any subsequent expansion to self-represented litigants should be pilot-tested in a limited region for a limited period of time, again with specified timeline and process in place for evaluation;

-the rule should explicitly state — and in implementation all courts should be similarly explicit — that existence of *physical*, *policy* or *electronic* barriers to disability-accessibility are an appropriate basis for exemption.

♦ **Need for appropriate exemptions process**

 Regardless of whether the rule specifies an “opt-out” or “opt-in” process — but particularly in the event the Judicial Council decides to proceed with “opt-out” — the rule must include a clear exemptions process that should have all of the following features:

* compliant with federal and state disability civil rights law requirements;
* coordinated and aligned with the existing provisions of CRC 1.100
* clearly and sufficiently detailed as to all aspects of the process (including eligibility requirements; timelines and mechanisms for submitting requests and issuance of decisions; identification of initial screener(s) authorized to rule on exemption requests; and identification of oversight process for review of initial decisions); and

* clearly memorialized, widely distributed and easily available in multiple accessible formats relevant to people with various disabilities.

 **♦ Need for technology access advisory resources**

Technology is currently developing and changing with enormous speed, and all iterations of technology affect people with different disabilities in variable and complex ways. Any e-filing and e-service rules will be adopted and implemented against the backdrop of this dynamic reality. While AB 2073 and the Judicial Council have generally recognized this reality, there has not yet been specific outreach as to and consideration of technical issues and standards of potential relevance to expanded e-filing and e-service requirements. We thus strongly recommend that the Judicial Council undertake the following activities before and in connection with issuing the upcoming rule:

* solicit specific public comment on disability access issues (including outreach in multiple accessible formats to disability community organizations throughout California;
* retain and consult experts with technical knowledge of disability access issues (including all of the access issues identified in this comment) to advise the Judicial Council in the crafting of this rule;[[20]](#footnote-20)
* direct courts implementing the rule to retain and consult experts with technical knowledge of disability access issues (including all of the access issues identified in this comment); and
* invite user participation in technical system design and testing.[[21]](#footnote-21)

***Experience has demonstrated that entities that fail to incorporate appropriate technical expertise into new online rollouts frequently end up with disability-inaccessible systems that ultimately prove more costly.***Particularly when overall cost is a concern, it is far preferable for entities to pay for and incorporate appropriate advice at the design and testing stage, rather than face exposure to the more expensive legal and retrofit costs that result when systems are rolled out without appropriate disability accessibility.[[22]](#footnote-22)

 **♦ Need for ongoing feedback mechanisms**

 The upcoming e-filing and e-service expansion will be novel and complex in its own right. It will also be affected by the ongoing broader patterns of technology development. As the Judicial Council has already recognized, this means that the rule and the implementing courts must be attentive not only to user insights, but also to technology changes that will occur over time.[[23]](#footnote-23) The rule should establish clear and detailed feedback mechanisms to permit modifications as necessary, and to ensure its real-world workability over time.[[24]](#footnote-24)

**Comments as to Proposed Forms**

 **♦ Should include separate forms for e-filing and e-service**

Consistent with the decoupling recommendation discussed above, the proposed forms should be amended to include separate forms related to e-filing and e-service, respectively. The proposed order form should similarly be amended to decouple documentation of rulings as to e-filing and e-service. We recognize that as drafted the forms seem to allow for the possibility of distinct requests and ruling as to e-filing and e-service. However, many self-represented litigants — particularly those both unfamiliar with legal terminology and lacking in computer skills — can be reasonably expected to be confused about the difference between these two activities. Combining the two in the same request form and order also creates a greater risk that courts will fail to appropriately consider e-filing and e-service independently.

**♦ Should include specific check-boxes for disability accommodation**

 Both the e-filing and e-service forms should include a check-box specific to disability accommodations. They could explicitly read, respectively, “I do not have computer or Internet access to e-file because of my disability” and “I do not have computer or internet access for e-service because of my disability.” The order forms should also have corresponding a check-box, reading, respectively “The court grants the application for exemption for e-filing as a disability accommodation,” and “The court grants the application for exemption from e-service as a disability accommodation.”

 **♦ Should be “fillable”**

The final forms available to the public must be “fillable,” so there is no need to print the form as hard-copy and input requested information on a hard-copy form.

**♦ Should be compatible with specific access considerations highlighted below**

All software and website features, and electronic interfaces, relevant to the forms must be disability-accessible, and form accessibility needs to encompass all of the disability-specific access concerns highlighted below.

**Comments as to Specific Access Considerations**

**♦ Access for people with mobility disabilities**

 Examples of barriers include:

-reach ranges for controls

-viewing angles of controls, displays or information

-heights of writing surfaces

-size, placement, slope and surface of path of travel and clear floor space

**♦ Access for people with manual dexterity disabilities**

Examples of barriers include:

-objects required for interaction (styli, credit card swipes, keypads, mobile devices) that are hard to retrieve, hold, position, manipulate, and stow

-keypads and buttons (physical or on-screen) that are small or require precision to operate or don't work with prosthetic devices

-Input mechanisms that time out

**♦ Access for people with vision disabilities**

Examples of barriers include:

-touch screen interfaces without audio and tactile input options

-visual (on-screen or printed) information without audio, tactile, large print, or high contrast output options

-video information without audible description

-biometric authorization, authentication, or identification mechanisms that depend on retina or iris

-input mechanisms that time out

**♦ Access for people with hearing disabilities**

Examples of barriers include:

-audio or video information that is not captioned or otherwise available in visual format

-audio information without volume control

-hearing aid interference

♦ **Access for people with cognitive and learning disabilities**

Examples of barriers include:

-content, authorization/authentication systems, and navigational controls that are complicated, lack simple cues, or use multiple media at the same time

**APPENDIX A:**

(Description of Signatory Offices)

**Disability Rights California (DRC)** (formerly Protection & Advocacy) is a private non-profit agency established under federal law to advance the rights of Californians with disabilities. DRC receives California IOLTA funding as a qualified legal services project.

**Disability Rights Education & Defense Fund (DREDF)** is a national nonprofit law and policy center founded in 1979 by adults with disabilities and parents of children with disabilities. DREDF receives California IOLTA funding as the Support Center offering disability rights expertise to the California legal services system.

**Disability Rights Legal Center** is a non-profit legal organization founded in 1975 to represent and serve people with disabilities. DRLC receives California IOLTA funding as a qualified legal services project.

**Legal Aid Society–Employment Law Center** is a nonprofit, legal services organization that has been assisting California’s low-income working families for more than 90 years. LAS-ELC has a Disability Rights Program specifically dedicated to disability rights law issues. LAS-ELC receives California IOLTA funding as a qualified legal services project.

1. These four offices are California-based, IOLTA-funded non-profit organizations either solely or significantly devoted to advancing and protecting the civil rights of people with disabilities. All signatories have an extensive presence in California, and are nationally recognized for their decades-long experience with and expertise in both federal and California disability civil rights law analysis. Additional description of each of the signatory offices is attached to this letter as Appendix A. [↑](#footnote-ref-1)
2. The California legal services system is empowered to offer free civil legal services to persons with incomes of 125% or less of the current federal poverty guidelines — meaning, generally, households with incomes from approximately $14,000 to $48,000 (depending on size of family). Additionally, the system is empowered to serve persons eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. *See* Cal. Bus. & Prof. Code § 6213(d).

As consistently confirmed by decentennial U.S. census data, and other statistical data, there is a strong correlation between disability and poverty, as well as between disability and age. ***[Need stats links].***  People with disabilities are thus disproportionately eligible for California legal aid, and disproportionately likely to be among the low-income and disadvantaged parties that comprise the bulk of self-represented litigants. Concerns of relevance to legal aid-eligible and self-represented Californians are thus of particular relevance to people with disabilities.

 [↑](#footnote-ref-2)
3. To avoid redundancy, we do not address or duplicate comments as to “scope of cases covered,” and issues of “fees and fee waivers,” and “effective time of electronic filing and service.” We recognize the critical importance of these issues to all attorneys and litigants, including attorneys and litigants with disabilities. But their implications are well-addressed in other submissions. We have no more specific insights to offer on those issues, beyond our general emphasis on the need to incorporate disability access mandates and principles into all aspects of any rule. [↑](#footnote-ref-3)
4. This reality is noted in *Advancing Access to Justice Through Technology: Guiding Principles for California Judicial Branch Initiatives* (Judicial Council, August 2012)(“*Advancing Access*”), which was referenced in the Invitation at 5. See *Advancing Access*, Principle 1 at 4 (“Remote services allow those with geographic, age, health financial, or other restrictions to access the courts in a more comfortable fashion at their convenience.”) [↑](#footnote-ref-4)
5. See *Advancing Access*, Principle 3 at 7 (“But not everyone is able to afford these technologies or is comfortable using them.”); and Principle 4 at 8 (“Considerations for those with special needs, those for whom English is not their first language, or those who might access such services from remote locations such as a library are critical in establishing an online service system that is equitable and usable.”) [↑](#footnote-ref-5)
6. See *Advancing Access*, Principle 1 at 1 (“[I]ntroduction of technology or changes in the use of technology must not reduce and should advance access or participation whenever possible.”); and Principle 3 at 7 (“[I]t is important to design online systems in a way that is consistent with and complementary to the in-person experience.”) [↑](#footnote-ref-6)
7. Relevant federal mandates include Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, implemented by 28 C.F.R. §§ 42.501 et seq. (relevant to all public and private recipients of federal financial assistance)(“Section 504”); Title II of the Americans with Disabilities of 1990, as amended, 42 U.S.C. §§ 12131-12134, implemented by 28 C.F.R. Part 35 (relevant to public entities, including the California state court system)(“ADA Title II”); and Title III of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12181-12189, implemented by 28 C.F.R. Part 36 (relevant to private entities offering goods or services, including privately owned and operated electronic filing service providers (EFSPs)) (“ADA Title III”). [↑](#footnote-ref-7)
8. Relevant state mandates include California Government Code Section 11135 (relevant to the state of California and any entity receiving state financial assistance)(“Section 11135”); the Unruh Civil Rights Act, Cal. Civ. Code §§ 51 et seq. (“the Unruh Act”)(covering “all businesses of every kind whatsoever” in California); and the California Disabled Persons Act, Cal. Civ. Code §§ 54.1 et seq. (“the CDPA”)(covering California “public accommodations”). Notably, all of these state statutes incorporate federal disability rights mandates as a floor of protection, but also establish independent California disability rights mandates that may exceed federal protections. [↑](#footnote-ref-8)
9. See, e.g., 28 C.F.R. §§ 35.160-35.164 (ADA Title II mandate for “communication access”); 28 C.F.R. §§ 35.149-35.152 (ADA Title II mandate for “program accessibility,” addressing physical barriers); and 28 C.F.R. § 35.130(b)(7)(ADA Title II mandate for “reasonable modifications in policies, practices or procedures”). See also, 28 C.F.R. §§ 36.304-36.305, and 36.401-36.406 (ADA Title III mandates regarding physical access and barrier removal); 28 C.F.R. § 36.303 (ADA Title III mandate for “effective communication” and provision of “auxiliary aids and services”) and 28 C.F.R. § 36.302 (ADA Title III mandate for “reasonable modifications in policies, practices or procedures”). [↑](#footnote-ref-9)
10. AB 2073 (2012) itself made no explicit reference to disability rights statutes because it is, of course, not necessary for new legislation to reference existing laws with which it can be harmonized. However, it is important that more detailed implementing regulations offer explicit discussion of the ways in which pre-existing legal requirements have legal and practical relevance to new rules. It is particularly important here, where disability rights mandates clearly dictate or constrain particular aspects of this rulemaking. [↑](#footnote-ref-10)
11. Specifically, requests for accommodation “may be presented ex parte on a form approved by the Judicial Council, in another written format, or orally.” CRC 1.100(c)(1). Requests “must include a description of the accommodation sought, along with a statement of the impairment that necessitates the accommodation. The court, in its discretion, may require the applicant to provide additional information about the impairment.” CRC 1.100(c)(2). The submission deadline is at least five court days before the requested implementation date, although the court may waive the requirement. CRC 1.100(c)(3). Requests are to be forwarded to the court's ADA coordinator. CRC 1.100(c)(1). [↑](#footnote-ref-11)
12. Rule 1.100(a)(3) defines accommodations as “actions that result in court services, programs, or activities being readily accessible to and usable by persons with disabilities. Accommodations may include making reasonable modifications in policies, practices, and procedures; furnishing, at no charge, to persons with disabilities, auxiliary aids and services, equipment, devices, materials in alternative formats, readers, or certified interpreters for persons with hearing impairments; relocating services or programs to accessible facilities; or providing services at alternative sites. Although not required where other actions are effective in providing access to court services, programs, or activities, alteration of existing facilities by the responsible entity may be an accommodation.”

13 Under the rule, requests for accommodation are to be forwarded to the court's ADA coordinator. CRC 1.100(c)(1). Upon submission, the court “must consider, but is not limited by [the Unruh Act & the ADA] and other applicable state and federal laws in determining whether to provide an accommodation or an appropriate alternative accommodation.” CRC 1.100(e)(1). Failure to rule on a CRC 1.100 request creates structural error. *Biscaro v. Stern* (2d. App. Dist. 2010) 181 Cal.App.4th 702, 710. [↑](#footnote-ref-12)
13. [↑](#footnote-ref-13)
14. Specifically, the court may deny a request for an accommodation only when it determines that: (1) the applicant fails to satisfy the requirements of the rule; (2) the requested accommodations “would create an undue financial or administrative burden on the court;” or (3) the requested accommodation “would fundamentally alter the nature of the service, program, or activity.” CRC 1.100(f); *In re Marriage of James M. and Christine J.C.* (4th App. Dist 2008), 158 Cal.App. 4th 1261, 1273. [↑](#footnote-ref-14)
15. Denials by non-judicial court personnel are subject to review by the presiding judge or designated judicial officer. Denials by the presiding judge or designated judicial officer are subject to review via petition for mandate. CRC 1-100(g). [↑](#footnote-ref-15)
16. Specifically, CRC 1.100(c)(4) provides: “The court must keep confidential all information of the applicant concerning the request for accommodation, unless confidentiality is waived in writing by the applicant or disclosure is required by law. The applicant's identity and confidential information may not be disclosed to the public or to persons other than those involved in the accommodation process. Confidential information includes all medical information pertaining to the applicant, and all oral or written communication from the applicant concerning the request for accommodation.”

CRC 1.100 (g)(3) additionally mandates that “confidentiality of all information of the applicant concerning the request for accommodation and review under [CRC 1.100] (g)(1) or (2) must be maintained as required under [CRC 1.100] (c)(4).” [↑](#footnote-ref-16)
17. *See Advancing Access*, Principle 2 at 6 (self-represented litigants “are likely to access court systems from home, public libraries, legal aid offices, and court self-help centers. Security precautions and registration requirements may need to be tailored to make accessing online court services from these locations feasible and secure.”) [↑](#footnote-ref-17)
18. See the federal and California disability civil rights law mandates cited above at nn.7-9. [↑](#footnote-ref-18)
19. See, e.g., 28 C.F.R. § 35.130(b)(1) (prohibiting ADA Title II public entities such as California courts from engaging in disability discrimination “directly or through contractual, licensing, or other arrangements” when providing “any aid, benefit or service”). See also *Armstrong v. Schwarzenegger* (9th Cir. 2010) 622 F.3d. 1058. [↑](#footnote-ref-19)
20. We note that commitment to obtain the services of technical experts comports with *Advancing Access*, Principle 1 at 4 (recognizing that goal to ensure access and fairness “includes building accessible websites and tools as well as providing content in multiple languages”). [↑](#footnote-ref-20)
21. See *Advancing Access*, Principle 4 at 8 (“the overall suite of solutions should provide multiple services or layered services that meet the needs of a broad range of court users. An important way to ensure that systems meet user requirements is to have users participate in system design and testing before launch.”) [↑](#footnote-ref-21)
22. As one recent example, we cite to the disability access failures that attended the Secretary of State’s September 2012 launch of the California Online Voter Registration (COVR) website. See <http://www.disabilityrightsca.org/news/2012_newsabout%20us/pressrelease%202012-09-25%20Voting.htm> for more information. [↑](#footnote-ref-22)
23. See *Advancing Access*, Principle 3 at 7 (“Newer, more advanced technologies are appearing in the marketplace at an astonishing rate.”); and Principle 10 at 16 (“With the rapid state of innovation and the corresponding evolution in people’s expectations of what they can do with technology, courts must consider future change and growth with any technology project. Building a technology infrastructure that can grow and adapt is critical to the sustainability and evolution of online services.”) [↑](#footnote-ref-23)
24. See *Advancing Access*, Principle 2 at 5 (the “framework of policies, laws, and rules supporting e-filing will need to evolve”); and Principle 2 at 6 (“implications regarding access will evolve and so should court policies.”) [↑](#footnote-ref-24)