

## Authorities Supporting Reasonable Accommodations for SRLs

Modern ethics guidance strongly supports reasonable accommodations for Self-Represented Litigants (SRLs) to ensure they have a fair opportunity to present their cases. Multiple courts and judicial authorities have emphasized this principle, reflecting a growing nationwide consensus.

### 1. ABA Model Code – Rule 2.2, Comment [4] (2012)

In 2012, the American Bar Association (ABA) updated its Model Code of Judicial Conduct to provide clarity on judges' roles when dealing with Self-represented litigants:

***“A judge shall uphold and apply the law and shall perform all duties of judicial office fairly and impartially.”***

Comment [4] clarifies that.

**“It isn’t a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.”**

This addition explicitly confirms that judges are encouraged to make accommodations so that *American Bar Association, Model Code of Judicial Conduct, Rule 2.2, with Comment [4] (2012)* to ensure that SRLs receive a fair hearing without compromising judicial neutrality.

States That Have Adopted *American Bar Association, Model Code of Judicial Conduct, Rule 2.2, with Comment [4] (2012)*

- Arizona
- Arkansas
- Connecticut
- Hawaii
- Indiana
- Minnesota
- Nevada
- North Dakota
- Oklahoma
- Tennessee
- Utah
- Washington
- Wyoming

In these jurisdictions, the explicit reassurance from the ABA, that judges do not violate impartiality by accommodating self-represented litigants is part of their official code. This gives judges relief from appearing biased and makes them more comfortable when providing safeguards for SRLs. **However, beware! Not all judges apply it consistently. It is a good policy to request reasonable accommodation by filing a Motion to Ensure Fair Hearings.**

## By Contrast

### Rhode Island Judiciary – “Your Day in Court” Policy

The Rhode Island Judiciary takes a stricter stance regarding SRLs. According to its official “Your Day in Court” guidance on the “Self Help” page of Rhode Island Judiciary website it cautions:

**“Although you can represent yourself, when you enter the courtroom, you are tasked with having the same knowledge of the court process as an attorney.”--**  
*Rhode Island Courts*

This statement is not a “Rule” however, it is a “**condition**” placed on every citizen who appears in court without a lawyer, heavily relied upon by judges, as a loophole and without grounding in statute, it stands in direct conflict with controlling precedent. A requirement, never plainly disclosed to the public, (unless you happen to see it on the website) yet relied upon by judges, including Rhode Island Courts, giving judges permission to **disregard, and deny** record supported arguments, properly grounding in the facts and the law, presented by Self-represented litigants. A “condition” amounting to an egregious violation of due process and equal protection, contradicting the foundations of access to justice, tilting the scales toward represented parties and creating a two-tiered justice system. SRL’s are repeatedly denied based upon this unconstitutional loophole. It is impossible for an ordinary citizen appearing in court to have the same knowledge of the court process as an attorney; therefore, their arguments can be disregarded by the judge not based on merit but status of being unrepresented. **True access to justice requires that self-represented litigants be asked to follow the rules, not to possess a lawyer’s level of knowledge.**

## By Contrast

### 2. Massachusetts ‘Approach

Massachusetts Supreme Judicial Court’s new 2025 Judicial Guidelines go a step further than ABA commentary. They **empower judges** with a continuum of responsibility, stating that judges:

**“generally should, and sometimes must” adapt procedures so self-represented litigants are fairly heard, without compromising impartiality.”**

Crucially, Massachusetts embeds this standard in black-letter guidance, tying it to both ethical duty and constitutional due process, not just permissive flexibility. **It isn't optional.**

## The Growing National Consensus

Across multiple jurisdictions, modern judicial standards emphasize one central principle:

- SRLs must be given a meaningful opportunity to present their cases.
- Reasonable accommodations are mainstream, current, and necessary.
- These measures preserve neutrality while protecting due process rights.

However, Rhode Island's position, requiring SRLs to operate as if they possess attorney-level expertise, remains an outlier compared to evolving norms in Massachusetts, and all other states that have adopted the ABA model rule, without a discretionary option. Rhode Island along with eight other states who have refused to establish a Commission for Access to Justice maintain a loophole and a safe harbor for unfair treatment of Self-represented litigants. –

What are Reasonable Accommodations?

### Federal Judicial Court Accommodations Guidelines:

**a)** Liberally construe pleadings to facilitate consideration of issues raised. **b)** Provide information/explanation about the proceedings. **c)** Explain legal concepts in everyday language. **d)** Ask neutral questions to clarify information **e)** Modify traditional order of taking evidence. **f)** Permit narrative testimony **g)** Refer litigants to resources available to assist in preparation of the case or enforcement and compliance with any order. **h)** Inform litigants what will happen next in the case and what is expected of them. In addition-

### Appellate Courts are obligated to:

**1)** Identify the applicable standard of review; **2)** Apply it consistently to the facts and rulings at issue; **3)** Provide a reasoned explanation of how the standard supports the outcome. Omission of this analysis deprives appellants of meaningful appellate review.

### Conclusion

Courts favoring lawyers over SRLs embed structural bias. A system telling judges they “**may**” provide accommodations, effectively authorizes unequal treatment, depriving SRLs of constitutional protections. **Fundamental rights are not optional.** Excluding Comment [4] and requiring SRLs to meet attorney-level knowledge, access to justice becomes illusory: ordinary citizens held to impossible standards while safeguards of due process and equal

protection are withheld. By withholding accommodations, judges are not neutral, they tilt the scales toward represented parties, dismissing SRLs as not meeting attorney standards, justifying outcomes on the circular premise that lawyers “know the law” SRLs don’t, it’s no contest, based on status, not merit. “Discretionary accommodations for SRLs” operates as a **safe-harbor to disregard** SRL record-supported arguments, converting **neutrality into advocacy**. For represented parties. Ordinary citizens must not be forced to navigate a system without protection that fairness demands. By tolerating unethical advocacy, fundamental rights are violated. Given the increasing reality that the majority of civil cases now involve at least one self-represented litigant, maintaining this “condition,” is not only impractical, it’s unconstitutional.

It is imperative for Rhode Island to align its policies with modern Access to Justice standards to ensure fairness, transparency, and equity in the courtroom. **Until such time, SRLs must request it. Requesting accommodations in a Motion to Ensure Fair Hearings is the only way to protect your rights.**

#### **STATES WITHOUT A COMMISSION FOR ACCESS TO JUSTICE**

- 1. Florida**
- 2. Idaho**
- 3. Minnesota**
- 4. Missouri**
- 5. North Dakota**
- 6. New Jersey**
- 7. Oregon**
- 8. Pennsylvania**
- 9. Rhode Island**

Like Rhode Island these states do not provide accommodations or make efforts to ensure that Self-represented litigants have assistance for being Self-represented and are easily taken advantage of and exploited when they are up against a lawyer on the other side. Given these limitations it might be a good idea to file a Motion to Ensure Fairness that will either be granted or denied. At the very least you will assert your constitutional rights for due process and equal protection, making your request to be treated fairly a part of the record.

Federal courts provide liberal construction of pro se pleadings but do not recognize a constitutional or rule-based right to reasonable accommodations for self-represented litigants, leaving fairness largely to unreviewable judicial discretion. For this reason, it is a good idea to request them prior to the start of hearings in the case.