

ENSURING
AN OPEN
DOOR
TO
JUSTICE

solutions for enhancing access to the courts
for self-represented litigants

2009

ADVISORY GROUP ON SELF-REPRESENTATION IN THE NEW JERSEY COURTS

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EXECUTIVE SUMMARY

Under the strong leadership of the New Jersey Supreme Court, the New Jersey Judiciary is dedicated to providing equal treatment under the law for all court users. Litigants without lawyers have become an integral part of the justice system in recent years and their numbers are growing. With decades of experience in serving self-represented litigants, the New Jersey Judiciary is well-positioned to identify and address the fundamental challenges that litigants without counsel are facing.

The Advisory Group on Self-Representation in the New Jersey Courts (advisory group) was established to assess successful programs, policies, and procedures of courts nationwide, including those in New Jersey, and to explore systemic causes for dissatisfaction or ineffectiveness among those in the pro se community as well as opportunities for innovative progress. Accordingly, the group has developed a set of recommendations, an action plan, “Ensuring an Open Door to Justice... Solutions for Enhancing Access to the Courts for Self-Represented Litigants,” to better facilitate the use of the courts for litigants who represent themselves while maintaining the balance of justice for all. (Recommendations without Commentary – Appendix A)

This action plan outlines long-term strategies designed to enhance the public’s experience using the New Jersey court system while maintaining the Judiciary’s integrity in the delivery of fair, impartial justice. Overall, the recommendations strive to accomplish the following basic objectives.

1. Provide information to the public to raise awareness of the court system and the litigation process.
2. Assist litigants by maximizing court resources and making processes more user-friendly and transparent.
3. Work to coordinate access to legal information for self-represented litigants and codify the assistance that can be provided by court staff.

Equal access to justice should not depend upon representation by an attorney. While in some instances it is in a litigant’s best interest to be represented by competent counsel, the reality is that many people will represent themselves, either by choice or by necessity. The Judiciary facilitates such efforts by offering appropriate and effective court services—but challenges still exist.

Self-represented litigants range from extremely knowledgeable, experienced court users to people who are in court for the first time. Regardless of the circumstances, these litigants face unique challenges throughout the judicial process. The increased demand this places on court services as well as the need for added resources cannot be overlooked, particularly in those cases frequently handled by self-represented litigants such as small claims, special civil, municipal, landlord/tenant and family matters. Unless this demand is

properly addressed, the Judiciary will likely see a decrease in the public's trust and confidence in the courts and an increase in case backlog as well as workforce dissatisfaction.

At a time when the Judiciary is doing more with less, reallocation of resources and funding for the advancement of new initiatives may not be popular. However, “no” or “not now” is not a suitable response. Fundamental changes to longstanding, ingrained practices come with complex challenges. Those associated with implementing this action plan relate primarily to costs and staffing. Costs will be incurred for developing and maintaining programs and services, and for printed materials and other tools necessary to deliver services.

On the other hand, several of the suggested innovations are already offered in one or more vicinages and can be integrated statewide with little difficulty. Additionally, some proposed enhancements for existing programs and services can be accomplished with existing resources and minimal funding.

Improving court services and enhancing assistance programs is beneficial for courts, attorneys, and all litigants, self-represented and represented alike. Informed and prepared litigants reduce costs and judicial resources now spent on inappropriate filings, unproductive court appearances, non-compliance with court orders, and unnecessary delays and continuances.

The diverse composition of the advisory group membership, incorporating expertise at both the vicinage level and the central office, reflects its broad charge and encompasses all areas impacted by the service needs of self-represented litigants. As a result, this comprehensive action plan is poised for successful implementation. This will, in turn, further the Judiciary's commitment to equal access for all court users through the advancement of progressive court services and programs—a longstanding hallmark of the New Jersey Judiciary.

ADVISORY GROUP MEMBERSHIP AND STRUCTURE

Members were nominated by assignment judges, trial court administrators as well as directors and assistant directors at the Administrative Office of the Courts (AOC), and appointed by Judge Glenn A. Grant, acting administrative director of the courts.

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Staff to the Advisory Group

The Advisory Group met in executive committee, subcommittee and plenary sessions. Subcommittee chairpersons along with the chair and co-chair of the advisory group comprised the executive committee. The following five subcommittees were formed to facilitate the work of the advisory group:

FORMS AND PUBLICATIONS SUBCOMMITTEE

The Forms and Publications Subcommittee reviewed Judiciary forms and publications and focused on developing recommendations to improve, enhance and update informational and instructional materials; employ the use of technology to offer more user-friendly, interactive Web-based forms; and develop new forms to improve court access.

ACCESS SOLUTIONS SUBCOMMITTEE

The Access Solutions Subcommittee reviewed various national programs and trends related to equal access to justice and developed recommendations intended to improve programs and services for self-represented litigants in New Jersey. This subcommittee focused its attention on how best to enhance public trust and confidence in the courts, particularly considering the Judiciary's responsibility to litigants of limited English proficiency and limited literacy and litigants protected by the Americans with Disabilities Act and the New Jersey Law Against Discrimination. This subcommittee also established recommendations for continuing education for judges and staff to ensure fair processes and procedures.

CUSTOMER SERVICE SUBCOMMITTEE

The Customer Service Subcommittee examined existing service practices of front-line staff with a focus on clarifying and defining responsibilities as well as identifying appropriate limits when assisting self-represented litigants. Issues relating to providing information and assisting with court forms also were explored. The focus of the subcommittee centered on the continuum of litigant needs and identification of effective methods to respond to those needs. The subcommittee also considered how best to incorporate self-represented litigant assistance into the larger delivery system of legal services including integration of lawyers into court-based self-help assistance programs.

COMMUNITY OUTREACH SUBCOMMITTEE

The Community Outreach Subcommittee focused on statewide standardization of public education and outreach programs in collaboration with the trial court divisions and on the development of other outreach programs to promote the work of the Judiciary, with a focus on its mission, vision, and core values. The subcommittee's recommendations were developed based on needs, expectations and anticipated changing resources.

COURTROOM PRACTICES SUBCOMMITTEE

The Courtroom Practices Subcommittee explored emerging national best practices in the effective management of self-represented litigants in the courtroom. The subcommittee focused on strategies to ensure that litigants receive appropriate assistance before and after court appearances.

A. SPECIALIZED COURT-COMMUNITY MARKETING

RECOMMENDATION 1

access to justice awareness initiative

Develop and implement a statewide court-community awareness initiative highlighting the Judiciary's commitment to provide equal access to justice while emphasizing and integrating key themes including, but not limited to:

- The Judiciary's mission
- The ethical obligation to ensure that access to the courts extends to both represented *and* self-represented litigants
- The expectation that judges and staff facilitate quality treatment of all court users by way of the court's core values, modernized operational and quality service practices and court-community partnerships.

commentary

To preserve the public's trust and confidence in the court system, a mutual understanding of the expression "access to justice" is essential, particularly among judges, court staff, hearing officers/referees, municipal court administrators, court users, and the general public. This shared understanding will delineate expectations, clarify responsibilities of court staff, and ultimately enhance court user satisfaction.

This awareness initiative will serve as a launch pad and/or reinforcement tool in support of the various efforts suggested in this action plan. The target audience should be both internal and external to the court including, but not limited to, all judges and staff; volunteers; mediators; litigants; attorneys; resource/referral agencies' staff; sheriffs' officers; bar associations' members; jurors, and community groups' staff.

A three-pronged approach—executed simultaneously and sustained for at least a two-year period to demonstrate a firm commitment—is suggested. Informational content will be developed and deployed through advertising, education, and public relations initiatives. Each channel of communication should be clearly defined to effectively target the diverse audiences. Appropriate content may be disseminated through posters; banners; flyers; the InfoNet and Internet; "Judiciary Times;" "JT Briefing;" vicinage newsletters; press releases and internal and external training and education.

RECOMMENDATION 2

comprehensive delivery system

Create a visual depiction of the framework for a “comprehensive delivery system” of justice, in which represented and self-represented litigants are served. This framework should be adopted statewide and used as a tool for:

- Internal and external awareness as well as public education and public relations
- Professional development and training for judges and staff
- Both broad and specific process analysis and realignment.

commentary

Clarification, promotion, and further development of the overall framework for access to justice in the court system is critical to the organization’s understanding of this concept. The adoption of a common, contemporary framework will engage judges and court staff at every level in addressing operational challenges related to increased self-representation—nationally recognized as a significant cultural change for the judicial system in the 21st century.

Defining access to justice in practical, operational terms for judges and staff is essential for ensuring the delivery and enhancement of quality court services. Such an effort can serve as a key means of launching a holistic transformation of the organization’s delivery service model and expanding its capacity to serve self-represented litigants.

A visual image/illustration should be created to highlight key characteristics of a comprehensive delivery system. In particular, these visual tools should feature the experiences and observations of court users related to operational practices, protocol, services and programs. This marketing approach would be an innovative and instructive way to demonstrate the Judiciary’s commitment to ensuring equal access to the courts and encouraging the public to learn more about the court system.

For purposes of widespread distribution, a road map imagery is provided as an example. (Sample Illustration – Appendix B) Multiple variations of this format may be developed and tailored depending on the level of detail to be presented and the target audience. Integration of visual images will allow for clear, concise and easy to understand publications and will enhance litigants’ understanding of the court system and convey appropriate expectations.

B. WIDESPREAD PUBLIC EDUCATION

RECOMMENDATION 3

public seminars & workshops

Develop a statewide curriculum with consistent content/messages for the continued delivery of educational seminars and workshops on a variety of legal topics designed for the public and particularly self-represented litigants.

commentary

Knowledgeable court users are likely to select the appropriate forms, prepare them correctly and completely, file them in a timely manner and comply with court rules and procedures. Well-informed, self-represented litigants also are likely to know when and how to ask for information or assistance and how to prepare for court appearances. As a result, cases can be processed efficiently with minimal procedural delays. The more transparent the courts are regarding court processes, the better.

Seminars on topics such as criminal record expungement; landlord/tenant issues; child support; domestic violence; civil matters; immigration and foreclosure prevention should continue to be offered statewide based on the needs of local communities and courts.

Standard curricula—including uniform introductory and closing information (i.e., a script) about the Judiciary’s mission, vision, and core values—should be created and utilized for each presentation in order to provide consistency in content and statewide planning and delivery, as to not repeatedly “reinvent the wheel.”

Additional programs should be developed on topics that address the specific, unique needs of self-represented litigants. For example, “Navigating the Judiciary Web Site”, a public education workshop currently being taught by the Morris/Sussex ombudsman, would be beneficial if offered to various audiences statewide, particularly for court users who are unfamiliar with computerized research or those with literacy or vision challenges. The same content would also benefit staffs in community organizations and public libraries that routinely assist court users in finding information on the Internet.

To enhance partnerships with county bar associations as well as to realize cost savings and efficiency, the Judiciary should consider inviting attorneys to co-facilitate public outreach seminars, as they will soon be entitled to earn 1.5 hours of continuing education credit for every hour of instruction conducted.

RECOMMENDATION 4

self-help reference guide

Create a comprehensive reference guide for self-represented litigants that includes an overview of the court system and key rules, procedures, rights and responsibilities as well as the potential complexities associated with proceeding without counsel.

commentary

Self-represented litigants are directed to review an expansive collection of publications in order to obtain information about the court system, options for dispute resolution and case-specific procedural information. The use of a single, comprehensive yet streamlined publication specially designed to serve as a general roadmap and reference guide would facilitate quality assistance for self-represented litigants.

Such a guide would equip court users with pertinent information and instructions necessary to navigate the court system more effectively. The guide should highlight the court's responsibility and its neutral role in resolving disputes and providing impartial assistance to court users. The development of reference guides for all New Jersey courts (superior, municipal, tax, and appellate) should be considered. All guides would build upon and integrate existing relevant documentation, reframed as necessary for the intended audience.

The proposed title for the publication is "Navigating through the Superior (Municipal, Tax, Appellate) Court System – An Orientation Guide for the Self-Represented Litigant." The contents should address a wide-range of common issues (frequently asked questions); include a glossary of common legal terms; cover as many particular challenges faced by self-represented litigants as possible; and be written in plain English. It is suggested that the contents be organized according to "before," "during" and "after" case proceedings. Topics such as the following should be included.

- How do I know what kind of case I have?
- What is the role of a judge/hearing officer/referee?
- Can I talk to the judge/judge's staff?
- What are my rights and responsibilities as a self-represented litigant?
- Do I have to have an attorney?
- Can I handle certain parts of my case and have an attorney handle the rest (unbundled legal services)?
- Where can I go to get an attorney or free legal advice?
- How do I explore my options to resolve a dispute?
- How do I request services/accommodations such as an interpreter, hearing or visual aids?
- How do I find court related information without going to the courthouse?
- How much does it cost to file?
- What happens if I am not satisfied with the judge's decision?

C. Multi-Tiered Training and Professional Development

RECOMMENDATION 5

self-represented litigation education

Develop and deliver training—mandatory for all Judiciary employees including judges, law clerks, managers, staff, municipal court administrators and volunteers—detailing the contemporary philosophy and operational realities of ensuring equal access to the courts for self-represented litigants.

commentary

Adding to the challenges facing self-represented litigants and the courts is the fact that litigants have unique needs based on the type of case, their understanding of the court system, and their experience in utilizing the courts. Some also may have language, literacy and/or economic challenges. Regardless, the Judiciary recognizes that it must provide equal access to all and fulfill its mandate to provide continuously improving service. Training and education are essential to ensure consistent, effective court services statewide.

To achieve these goals, all Judiciary employees and volunteers must be aware of the current environment, the existing challenges and the many court resources, services and programs that ensure equal access. Since everyone in the Judiciary serves the public, everyone should receive the same baseline training, appropriately tailored to their corresponding roles and responsibilities. (See Recommendations 1 and 2)

Many training programs exist and should continue to be offered. These include: the Judiciary's mission, vision, and core values; procedural assistance versus legal advice; avoiding unnecessary acronyms and legal jargon; Judiciary resources and programs; and techniques for effective, quality service and communication. Existing curricula should be updated regularly in collaboration with its original designers to ensure consistency in content, delivery and effectiveness. To develop new content, a brief survey of superior, municipal, tax and appellate court staff and judges, as to specific challenges they encounter, can provide a better understanding of needed training topics. A similar survey initiative for feedback from the public is also recommended. (See Recommendation 18)

Such training should continue to be integrated into professional development opportunities such as new judge and hearing officer/referee training; law clerk, volunteer and new employee orientation; divisional core curricula training; principles of municipal court administrators; and management/leadership training. Advanced training on the topic should continue to be provided to those more experienced in their positions.

Similar training should also be offered to external partners such as county sheriffs' officers, and staffs in community organizations and public libraries, because they often assist court users and therefore should be aware of the challenges and resources.

RECOMMENDATION 6

procedural fairness education

Develop and deliver training—mandatory for all Judiciary employees including judges, law clerks, managers, staff, municipal court administrators and volunteers—that addresses the topic of procedural fairness and its correlation with the Judiciary’s mission, vision and core values.

commentary

The concept of procedural fairness focuses on improving the public’s perception of the courts and their courthouse and courtroom experiences. The core elements of procedural fairness are:

- **RESPECT** – People react positively when treated with politeness and dignity. Respect has cultural dimensions that should be taken into consideration when promoting respect as an institutional value.
- **VOICE** – People want to tell their side of the story and should have the opportunity to participate in their court proceeding.
- **NEUTRALITY** – People feel that they are being treated equally when those in authority act consistently and fairly.
- **TRUST** – People want to feel that their court experience was just and fair, regardless of the outcome.

Research on procedural fairness suggests that public perception is formed more by the way one has been treated rather than by the actual outcome of a case. The conduct of staff at service counters, in the courtroom, and elsewhere in the courthouse, influence public perception. People who believe that they were heard, treated fairly and respected leave with a positive attitude. Studies show that litigants who perceive the process as having been fair are more likely to comply with court orders, which reduces post-judgment activity. (Procedural Fairness in the California Courts – Appendix C)

Through content-specific training sessions, the Judiciary can integrate the philosophy of procedural fairness into operational practices for judges and staff. Judicial training should be tailored to specific courtroom scenarios outlining judicial neutrality, non-prejudicial engagement, and rules of evidence applicable for hearings and trials. (See Recommendation 20) The challenge is to improve public perception and thus the level of satisfaction while optimizing court performance.

D. Continued Quality Service Innovation and Standardization

RECOMMENDATION 7

court information desks

Maintain a central information desk in every Superior Court building or, at minimum, in every primary Superior Court location.

commentary

The courthouse can be an intimidating place, visited only when summoned or when absolutely necessary. Many have never been to the courthouse and are unfamiliar with the building and its surroundings. Individuals often arrive to court without their paperwork and are unclear about when, where and to whom they should report.

The information desk serves as the initial point of contact—the face of the courts—for members of the public entering the courthouse. Its existence minimizes the anxiety associated with visiting the courthouse, primarily because visitors are welcomed and directed to the appropriate destination.

Several vicinages already maintain information desks in their buildings including, but not limited to, Atlantic, Burlington, Camden, Essex, Mercer and Monmouth. Most utilize staff or community volunteers; therefore, few resources would be needed to achieve a statewide rollout. Based on experience to date, the following key elements should be considered for an effective statewide model.

- The desk should be positioned near the front entrance of the courthouse or facility, preferably just past the magnetometer, with a clearly visible sign or banner to publicize information services and create a welcoming atmosphere.
- The desk should be staffed during periods of high visitor traffic, at a minimum, preferably by trained volunteers; otherwise using student interns or staff.
- Resources at the desk should include a telephone along with a complete office directory; access to the InfoNet/Internet and court case processing systems, as permitted; county and state referral information; a glossary of frequently used terms and acronyms; maps; and Judiciary and community brochures and publications.
- Comprehensive training should be offered initially and on a regular basis to ensure that volunteers/staff are fully equipped to serve the public.
- The Vicinage Court Interpreters Unit should provide assistance as needed, and the “Right to an Interpreter” poster should be used for court visitors with limited English proficiency. (See Recommendation 15)

RECOMMENDATION 8

court resource centers

Establish a “court resource center” in every vicinage to provide enhanced one-on-one assistance and self-help services for self-represented litigants.

commentary

One of the greatest challenges facing self-represented litigants is accessing information needed to prepare for court. Located within the courthouse, the court resource center (CRC) will assist self-represented litigants in obtaining legal and other information. At the CRC, individuals receive one-on-one assistance and learn about various court processes, have access to legal publications, and have the opportunity to attend workshops about court policies and procedures.

Experience gained from establishing self help centers¹ has proven that the primary resources needed to establish a CRC are space and trained staff. It is recommended that existing vicinage law libraries be utilized, where possible, and that librarians and volunteers staff the center, with the ombudsman responsible for development, training, supervision and data collection management and reporting. The development of a customized, standard training curriculum for CRC staff would facilitate consistent self-help services statewide.

A full service CRC would optimally include free or low cost legal assistance. This can be achieved by incorporating unbundled legal services, legal referral services, and pro bono assistance programs. (See Recommendation 23) At a minimum, the following services and information should be offered at court resource centers statewide.

- Trained volunteers and/or staff to explain court processes and procedures, including information to prepare litigants for all phases of the litigation process such as initial filing procedures and deadlines, court appearances and post judgment/disposition
- A core collection of legal reference materials and law librarian services to provide assistance for litigants who need help researching the law—New Jersey law, at a minimum
- Integration of existing law library resources and services, where feasible
- Supply of all available court forms and publications and local/community brochures and information
- Designated division liaisons (court staff) to provide immediate assistance and case-specific information as needed, facilitated through secured, on-the-spot inquiry access to court case management systems, where permissible

¹ The Union County Superior Court Self-Help Center, recently piloted, is open three days a week, staffed by trained volunteers and managed by the ombudsman. Between March 2009 and August 2009, the center received approximately 675 visitors and more than 300 telephone calls. The Essex County Superior Court's Information and Community Relations Center has been operating since September 1997. Staff provides one-on-one assistance to litigants and also is responsible for court events and public outreach initiatives such as seminars, speakers' bureau and court tours. The center, assisting approximately 30 people daily, is staffed by two full time community relations liaisons and managed by the ombudsman.

- Accessibility to court-based interpreting services for assistance by phone or in person, as necessary
- Referral information for lawyer referral services, state and local bar associations, community organizations and various service providers
- Technology including Public Access terminal(s); Legal Services of New Jersey kiosk; computer(s) with access to Lexis/Nexis and the Judiciary Web site; Interprettype®/ITY™ (provides “Universal Access to Conversation”) and a public copier and printer
- Step-by-step workshops/tutorials on a variety of topics such as how to complete court forms, basic case progression, and finding case law, court rules and New Jersey statutes
- An appointment system, ideally online, and an e-mail vehicle to respond to simple questions from the public, possibly reducing walk-in traffic

In order to maximize referrals and facilitate necessary services for self-represented litigants, the CRC should be well-publicized to judges, staff and the public, identifying its telephone number, email address, location, days and hours of operation and its mission.

RECOMMENDATION 9

court resource teams

Assign staff or trained volunteers to serve as “court resource teams” that will be stationed directly outside of courtrooms and specifically responsible for assisting litigants before and after court proceedings.

commentary

Self-represented litigants are typically unfamiliar with and confused by courtroom and post-hearing procedures, expectations and responsibilities. A staff member or trained volunteer positioned outside the courtroom could answer litigants’ questions immediately when they arise, particularly post-hearing, which would improve service, efficiency and court order compliance. Court resource teams would be especially beneficial for courts where hearings are held in off-site court locations with limited resources.

Assigning staff to assist court users outside of courtrooms would require reallocation of staff resources, which could be challenging for certain case processing divisions. Therefore, the use of trained volunteers is encouraged. Alternatively, court resource teams should be available in each division management office or in the court resource center. At a minimum, exit information should be provided in writing to inform self-represented litigants of existing resources. In municipal courts where resource teams may not be feasible, a video/DVD presentation should be developed and shown. (See Recommendation 17)

In order to provide consistency in service, judges and courtroom personnel should advise litigants of the resources available to them after they leave the courtroom, such as the court resource team, the division management office, the court resource center and the Office of the Ombudsman. (See Recommendation 21)

RECOMMENDATION 10

court forms assistance

Implement a statewide policy that explicitly addresses the manner in which court staff can assist court users with completing court forms.

commentary

When litigants choose to represent themselves in court, they frequently seek assistance from Judiciary staff when completing court forms. Self-represented litigants often are unable to accurately complete mandatory forms due to the nature of the forms, limited literacy skills, a disability or limited English proficiency.

Currently, Judiciary staff is authorized to complete certain forms for litigants in domestic violence cases consistent with statutory mandates, in child support matters in compliance with federal funding received under Title IV-D and when an indigent defendant has a constitutional right to a defense attorney and is required to submit an application to request representation by a public defender. There is currently no policy that sets forth whether staff should provide this service pertaining to other court forms such as do-it-yourself complaint packets or motion kits.

Some take the position that staff should not put pen to paper to assist self-represented litigants with completing court forms because doing so takes the courts out of its impartial role. On the other hand, the Judiciary maintains the principle that it provides equal access to the courts, particularly to a diverse population that may be uneducated, disabled or unable to afford legal representation.

There is currently no established statewide policy that sets forth a uniform application of this service. In particular, there is a lack of agreement regarding the responsibility and limits of court staff in assisting self-represented litigants with completing court forms. Various vicinages and certain divisions, however, assist self-represented litigants with completing court forms.

Standard guidelines should be implemented to ensure a statewide, uniform policy setting forth the specific assistance allowed and under what circumstances. This policy, or a customized stand-alone version, should also apply to the municipal, tax and appellate courts.

A draft proposal written by Nancy L. Gramaglia, Litigant Services Manager and Jeffrey A. Newman, Appellate Division Deputy Clerk, supplements the discussion on this topic, suggesting specific guidelines for assisting self-represented litigants with completing court forms. (Draft Proposal—Court Forms Assistance – Appendix D)

RECOMMENDATION 11

ada/njlad related assistance

Standardize the protocol for assisting litigants with limited English proficiency, physical or mental disabilities, or those in need of alternate arrangements for effective communication in accordance with the Americans with Disabilities Act (ADA) and New Jersey's Law against Discrimination (NJLAD).

commentary

Assistance offered by the courts for litigants with limited literacy skills, physical or mental disabilities, and those in need of alternative arrangements for effective communication varies across the state. Procedures exist but can vary depending on the court, vicinage, division, and personnel one encounters.

Judges and court staff must be informed in order to make appropriate determinations when recognizing and assisting litigants in need of an accommodation. The following should be considered in standardizing the protocol.

Methodology:

- Develop an organization-wide understanding of this topic.
- Provide a basis on which to evaluate the needs or requests for assistance.
- Facilitate increased consistency in the assistance provided statewide.

Key elements:

- EMPHASIZE – The Judiciary's core values
- CLARIFY – The Judiciary's responsibilities related to general assistance, accommodations, and resource referrals both internal and external
- PROMOTE – The Judiciary's resources at the vicinage, division and statewide levels in terms of key personnel, appropriate responsiveness, and use of proper options for assistance

Research would help to determine common and optional accommodations successfully utilized to assist those in need statewide. An informal statewide survey could be utilized to generate discussion and collaboration on the development of guidelines, building upon existing policies and practices. The guidelines should be integrated into training and professional development curriculum offered statewide for judges, law clerks, staff, hearing officers/referees, volunteers and student interns.

RECOMMENDATION 12

forms & publications working group

Establish a permanent forms and publications working group to develop, edit, review and standardize statewide forms, instructions and informational materials.

commentary

In 1998, the Ad Hoc Working Group on Pro Se Materials was formed to address the demands placed on the courts by the growing number of self-represented litigants. The work of the group focused on the creation of self-help forms and brochures. Significant progress was made as a result of the group's efforts.

This group should be reconstituted and restructured to continue to examine and meet the needs of court users in general and self-represented litigants in particular. Perhaps as a working group or subcommittee of the long-term advisory committee (See Recommendation 25), this centralized body should assist practice divisions with the management and development of materials for court users.

A structure and protocol should be developed to guide the group in its mission to facilitate the advancement of new forms and the standardization of forms, instructions, and informational brochures statewide. Broad membership and collaboration is necessary to achieve successful development and standardization, including subject-matter experts, complimented with input from the Automated Forms Section and the Publication and Video Services Unit at the AOC, the practice divisions, and various committees and conferences. Initial goals for this group should include the following.

- Develop protocol to manage the prioritization, development, and approval of existing or new forms and publications.
- Consider streamlining existing self-help packets, establishing uniformity.
- Coordinate division level participation in a variety of initiatives and activities including forms development, management, distribution, and maintenance strategies as well as utilization of advanced technology for document assembly, plus the administration of video/DVD and Web-based materials for self-represented litigants.
- Canvass vicinage offices and municipal courts for forms developed locally with an eye toward statewide implementation.
- Undertake a simple survey to determine what other forms might be needed or to ascertain what difficulties litigants may be encountering with existing forms. (See Recommendation 18)
- Develop a review process and guidelines for determining which documents and publications should be translated. (See Recommendation 14)

RECOMMENDATION 13

forms & publications assessment

Conduct a comprehensive review of all forms as well as instructional and informational materials to determine where simplified plain English language is feasible.

commentary

When self-help kits, brochures and other Judiciary publications are written in easy-to-understand language, readers are more likely to comprehend them. Court users experience fewer misunderstandings, which results in a reduced need for in-person and telephone inquiries and explanations. Consequently, fewer errors are made in filling out forms and more forms are properly submitted in a timely manner, resulting in legally sufficient or much improved pleadings for decision makers.

Assuming that a forms and publications working group will be established, the group should be charged with assessing all existing forms and publications, both in print and on the Judiciary Web site and proposing a plan for revision as needed. New forms and publications should be prepared thoughtfully and carefully to ensure that plain English is used. (See Recommendation 12)

RECOMMENDATION 14

translation of forms & publications

Translate forms and instructional and informational materials for self-represented litigants in multiple foreign languages.

commentary

Although the Judiciary accepts forms completed only in English, translating self-help kits and other informational publications into frequently spoken languages will broaden court access for litigants with limited English proficiency.

The proposed forms and publications working group should work in collaboration with the Language Services Section at the AOC to address the following.

- Assess the need to translate court information into languages other than English.
- Develop written materials in English and other languages that describe how to request and obtain an interpreter. (See Recommendation 15)
- Draft policies and procedures to determine which forms and publications should be translated and through which channel(s).

RECOMMENDATION 15

enhanced access to interpreting services

Establish and implement a statewide strategy for marketing the interpreting services available through the courts, including the required use of a language identification tool in assisting court users with limited English proficiency.

commentary

The New Jersey Judiciary is one of few court systems in the nation that provides free interpreting services. In addition to the statewide oversight of interpreting services by the Language Services Section at the AOC, each vicinage typically employs a full-time coordinator of interpreting services and at least one Spanish interpreter. The Judiciary also employs full-time, statewide interpreters for American Sign Language, Portuguese, Polish and Korean and utilizes contract interpreters and telephone interpreting services.

Currently, staff advises court users of available interpreting services and refers interpreting requests to the coordinator of interpreting services. In addition, some vicinages utilize written notices, prepared in a number of frequently spoken languages, which explain the availability of interpreting services. The Judiciary, however, does not have a formalized policy for publicizing the availability of interpreting services.

With such a diverse population in New Jersey, the Judiciary's free interpreting services should be heavily advertised through the use of posters, signs, brochures and Web site notices. Similar to the recent initiative to publicize the Judiciary's complaint process, basic guidelines and an implementation plan for the advertisement of available statewide court interpreting services should be established. The plan should include a requirement that all service counters throughout the Judiciary (in superior, municipal, tax and appellate courts, division offices, and the Superior Court Clerk's Office) utilize a language identification tool so that interpreting needs can be identified quickly, professionally and respectfully.

The advisory group recommends statewide use of the "Right to an Interpreter" poster that says in 31 languages: "You have the right to an interpreter at no cost to you. Please point to your language. An interpreter will be called. Please wait." (This poster is a modified version of an Interpreter Services poster first prepared by the Massachusetts Department of Public Health.) This user-friendly tool will alleviate confusion and increase efficiency by equipping staff to promptly determine the appropriate language interpreter needed. (Right to an Interpreter Poster – Appendix E)

Vital to this initiative is judge and staff training on responsibilities and procedures. All Judiciary employees should be aware of available interpreting services and should be able to make appropriate referrals within the court and in the community. The training element can be accomplished through a partnership between the Language Services Section at the AOC, vicinage coordinators of interpreting services, statewide staff interpreters and vicinage training coordinators.

E. Enhanced Technology-Based Delivery

RECOMMENDATION 16

judiciary web site enhancements

Further refine and develop the Judiciary Web pages that are dedicated to inform, instruct and assist self-represented litigants.

commentary

Information for self-represented litigants on the Judiciary's Web site should be streamlined to ensure comprehensiveness and usefulness. The technology should educate litigants about their responsibilities, court procedures and court resources, and assist them to utilize court forms and other necessary information in an efficient manner.

The advisory group is aware of several recent enhancements made to njcourts.com and upgrades to streamline information for self-represented litigants and improve users' overall experience. The following suggested improvements serve as examples of how best to complement the existing framework.

- **REORIENTATION OF WEB SITE** – The Judiciary Web site should be reorganized/reoriented to highlight the mission of the court and its obligation to meet the needs of and serve both represented and self-represented litigants through quality service and fair treatment.
- **USER-FRIENDLY WEB PAGES** – Web site information specifically for self-represented litigants, presently assembled and entitled *Represent Yourself in Court (Pro Se)/Self-Help Resource Center*, should be formatted with the “look and feel” of a user-friendly litigant's guide and supportive reference center. It should be organized for efficient and logical navigation that enables users to have a positive online experience.
- **UNIFORMITY OF INFORMATION** – Informational and instructional forms and brochures created by the vicinages should be uniform statewide (as appropriate) and posted on the Judiciary Web site.
- **INCREASED AUTOMATION** – More forms should be fill-able online, and existing and new forms should be automated to include validation capabilities that alert the user when a form is incomplete or includes unacceptable data.
- **COMMUNITY OUTREACH AND PUBLIC EDUCATION PLATFORM** – The Judiciary should market its programs and services and facilitate public education on the Web by posting related content using diverse tools such as PowerPoint, Webcasts and video/DVD formats. (See Recommendation 17) Content also could be shown in courthouse waiting areas, law libraries and in public libraries and could be presented at community outreach events.

RECOMMENDATION 17

multi-media self help resources

Compile existing resources to develop educational tools, using various types of media and formats, to communicate detailed, step-by-step information about initiating a case; preparing for court; identifying what occurs in the courtroom; and what can be expected after a court appearance.

commentary

Printed materials and tutorials should be developed to educate litigants about court operations. Basic presentations developed in video/DVD or PowerPoint formats can be shown in high traffic waiting areas, vicinage law libraries, court resource centers, public libraries or at community outreach events. Short presentations designed using streaming video technology can be posted on the Judiciary Web site, just as the Judiciary's "Court Clips" which are available on YouTube. All available media should be explored in order to maximize the Judiciary's reach.

To ensure wide distribution, printed materials can be mailed with notices sent to litigants or, to reduce paper, Web links for resources located on njcourts.com can be printed on notices. Publications should be available in courthouses, local libraries, legal services' offices and where community organizations are based. Court information also can be broadcast via telephone using on-hold phone messages ("tele-topics"). Regardless of the format, content should cover the following areas:

- Navigating the courthouse building and understanding security regulations
- Basics on how to initiate a case, including step-by-step instructions on how to complete frequently used self-help kits and forms, where to file court papers and how to prepare for court
- Appropriate courtroom behavior and overall decorum, including timeliness; dress; proper interaction with the judge; supervision of children and cell phone etiquette
- What to expect during court, including the role of staff; legal terminology; oath administration; plea bargaining; and waiting for your case to be called
- What to expect after the court appearance, including receipt of court notice(s) regarding future hearing dates or a judgment; instructions for litigants' next steps or options; and information regarding additional court assistance.

Since courtroom practices vary among divisions, judges and courts, materials should reflect procedures and decorum that apply to all courts. Certain resources, such as step-by-step tutorials, should be customized according to the type of case.

F. Expanded Evaluation Practices

RECOMMENDATION 18

broaden reach for public opinion

Expand the means by which the Judiciary solicits and evaluates feedback from the public regarding the perception of “usability” in terms of court information and services.

commentary

The Court User Satisfaction Survey, an effective tool used to evaluate court users’ overall courthouse experience, is available in Superior Court buildings and on the Judiciary’s Web site. Traditional, broad-based surveys, however, tend to capture a limited number of responses and limited feedback about specific court services. The court should explore an alternative and/or complementary means of pursuing feedback from the public.

A variety of “single point of contact” questions should be strategically implemented to assess the usability of court services, including the Judiciary Web site; New Jersey Municipal Court (NJMC) Direct; court information desks; court resource centers; ADA/NJLAD-related assistance; and court forms, self-help kits and other publications that are specifically designed for self-represented litigants.

In general, people are more likely to answer one or two key questions, related to their current business at hand, as opposed to 10 or more. The strategic dissemination of single point of contact questions in key service areas and the routine collection and analyses of the results will allow the Judiciary to identify useful materials and pinpoint and address issues in a timely fashion. The use of such questions can be applied through various formats such as in feedback drop-boxes, on designated “survey days,” and through a variety of customer service settings/tools such as in-person, online and by e-mail.

External focus groups should be utilized statewide. Specially-designated court volunteers can serve as focus group participants, perhaps regionally, to complete periodic evaluations of court services and publications. With proper leadership and guidance, focus groups will offer the court an invaluable, external perspective on the development and refinement of court services and resources specifically designed for self-represented litigants.

This focus group approach can be utilized to solicit feedback from others in the community who provide assistance to court users, including mediators, lawyers, librarians and community organizations’ staff. This information would be useful for the proposed forms and publications working group. (See Recommendation 12)

RECOMMENDATION 19

self-represented data collection & evaluation

Develop the technology and methodology to track and evaluate the volume of self-represented litigants served by the New Jersey court system.

commentary

Generally, the national perception is that the number of self-represented litigants is growing and the increase is having a significant impact on courts. There is, however, debate over whether courts should track the number of litigants who represent themselves. Specifically, it is unclear whether collecting the hard data, rather than relying on anecdotal information, is necessary or cost effective.

The advisory group suggests that having the ability to record this data would be beneficial on a number of levels. The Judiciary would be better equipped to effectively consider this significant business driver and prepare for a variety of changes that could impact case management practices; staffing levels; service interactions; training needs; policy and process development; and a host of fiscal matters.

Obstacles to such data collection, other than obvious resource and process issues, involve the logistics of collecting this information and its reliability. A litigant's status could change during the life of a case. Therefore, the point in time that a case is categorized (e.g., at filing, later in the case or at disposition) must be determined and acknowledged.

G. Streamlined Courtroom Practices

RECOMMENDATION 20

judicial guidelines on self-representation

Develop tools comprising judicial techniques for judges hearing cases involving self-represented litigants, possibly to include model scripts on how to start cases, how to deal with evidentiary issues and strategies for communicating with the parties in counsel and non-counsel situations.

commentary

There is often a struggle, of both an ethical and practical nature, between offering assistance to self-represented litigants and the obligation of the court to remain neutral and impartial. Judges who frequently hear cases involving self-represented litigants utilize specific strategies in order to complete the daily court calendar in a timely fashion. Accordingly, many state courts have developed general guidelines and a comprehensive benchbook for judges that provide techniques and strategies for handling cases in which at least one party is not represented by an attorney. (Sample Protocol for Judges – Appendix F)

New Jersey judges have various tools available statewide. Updated information on self-representation should be developed and distributed to superior, municipal, tax and appellate court judges and hearing officers/referees who typically hear cases in which litigants represent themselves.

Training for new judges, hearing officers/referees and ongoing judicial training programs for veteran judges typically include sessions related to the needs of, and challenges faced by, self-represented litigants in the court system. The advisory group recommends that these training programs continue and be modernized to correspond with current resources and new information.

RECOMMENDATION 21

after court strategies

Review present courtroom practices with an eye toward standardizing the information and instruction provided by judges, hearing officers/referees, courtroom staff and law clerks to self-represented litigants about post-hearing and post-judgment procedures and responsibilities, and explore the practice of referring self-represented litigants to available self-help services in more complicated matters.

commentary

Providing clear and consistent information to self-represented litigants at the conclusion of court hearings is essential for the delivery of quality court service and improves compliance with court orders. Standard courtroom procedures should include the expectation that judges and hearing officers/referees:

- Clearly explain the content of court orders
- Provide an overview of the next steps required for compliance and case conclusion
- Explain the availability of the division management office, court resource center, court resource team, Office of the Ombudsman or other identified staff.

In addition to judges and hearing officers/referees, courtroom staff and law clerks can be utilized to provide this information and make referrals for available after-court services.

H. Progressive Community Outreach and Partnership Development

RECOMMENDATION 22

student educational enrichment programs

Continue to foster court-community partnerships statewide by offering well-rounded educational programs about the courts to local school students and implementing such programs where not yet in place.

commentary

The goal of fostering court-community partnerships and promoting public trust and confidence in the courts is served by providing educational programs to students. Exposure to the role that courts play as an independent branch of government and to the many services the courts offer will enlighten students and could encourage students to study and prepare for careers in law, government service and related fields.

Many types of school programs exist statewide, including court tours; law fairs; youth mentoring programs; field trips to municipal courts; and speakers bureaus in which judges and court staff speak at school assemblies. Such efforts should be expanded where possible and implemented where none exist.

Training topics can include standardized information about the role and function of the courts, the New Jersey Judiciary's mission, vision, and core values and the three branches of government. A standard curriculum should be created to educate students at various grade levels for inclusion in existing public school curriculum for civics, government, social studies and history. Such information, presented through a variety of media and in an age-appropriate manner, can help each succeeding generation of students become knowledgeable, law-abiding, productive members of the community.

Strategies for planning and delivering Judiciary-specific curriculum to schools and tips for customizing sessions to meet local needs also should be developed. It is recommended that vicinages, through the Office of the Ombudsman, contact local schools to discuss available programs and solicit input about students' unique educational needs.

It is particularly important to consider the challenges and needs presented by underserved populations such as at risk youth in treatment or confinement facilities, youth who are in foster care and youth facing challenges related to immigration status. Partnering with bar associations also is suggested, since the New Jersey State Bar Association and Bar Foundation have a variety of age-appropriate modules and interactive programs available.

RECOMMENDATION 23

courthouse legal services

Explore the possibility of establishing a service plan with Legal Services of New Jersey, the New Jersey State Bar Association and other justice system stakeholders to provide self-represented litigants with legal services in the Superior Court.

commentary

Self-represented litigants frequently need legal advice. However, Judiciary staff is prohibited from providing legal guidance. Court staff is trained to refer litigants seeking legal advice to Legal Services of New Jersey or the county bar associations' lawyer referral service. But all too often many cannot obtain the desired representation because of limited resources. Options should be explored that will provide self-represented litigants with the opportunity to receive on-the-spot legal assistance at the courthouse in court resource centers or other designated areas.

Lawyers available in the courthouse can provide immediate and convenient legal assistance such as answering legal questions, helping with court forms and providing legal advice. This limited legal assistance is often referred to as “unbundled” legal services or “discrete task” representation. The basic concept is that attorneys provide assistance within the attorney-client relationship only for certain portions of the case. This service arrangement is beneficial to both the attorney and the client because the client receives services at a reduced rate and the attorney gets additional business and advertising.

Many self-represented litigants, however, have no ability to pay for legal services, even those offered on a limited basis and at reduced rates. Therefore, pro bono service requirements should be expanded to allow attorneys to serve clients in courthouses and elsewhere for credit under *Madden v. Delran*. Furthermore, the Judiciary should collaborate with Legal Services of New Jersey to explore the possibility of its attorneys being available in courthouses to provide legal assistance to qualified self-represented litigants.

The Judiciary also should explore partnering with law schools and paralegal programs for internships or volunteer services. Municipal courts should consider creating a program for law students to serve as interns with municipal prosecutors and public defenders. Recommending changes to the court rules to allow volunteer practice by retired and/or otherwise ineligible lawyers also should be explored.

RECOMMENDATION 24

statewide resource referral guide

Develop a comprehensive state/county resource and referral guide to support appropriate referrals for services that the courts do not provide and facilitate opportunities for information exchange between the courts and the community.

commentary

Court users seek various types of assistance from the courts, and the courts have many programs and services available to respond. Court users, however, often have needs that courts cannot fulfill, such as issues related to housing, finances and medical care.

To assist court users as much as possible, staff in all Superior Court divisions, locally and at the central office, and those in the municipal, tax and appellate courts, should be equipped to provide referral information about other agencies or organizations that offer appropriate help. Accordingly, it is recommended that each vicinage/office/court comprising the New Jersey Judiciary prepare a comprehensive resource referral list with information related to each division, municipality and county within the vicinage, for incorporation into one comprehensive list of statewide resources. The goal is to have this guide conveniently available to all staff in all courts so referrals can be made promptly and effectively.

For greater understanding and to ensure accurate referrals, the statewide resource referral guide should include basic information on the mission and services provided by each organization. The information must be kept updated for accuracy. Finally, it is recommended that the guide be made available on the Judiciary InfoNet and Web site.

I. Action Plan Implementation and Oversight

RECOMMENDATION 25

long-term advisory committee

Condense and make permanent the Advisory Group on Self-Representation in the New Jersey Courts to continue to advise the Judiciary on related matters and to coordinate statewide efforts to implement the recommendations set forth in this action plan.

commentary

This action plan should be viewed as a roadmap and used to lead the Judiciary as it continues to address the challenges presented by individuals who access the legal system without counsel. The existing advisory group, while quite competent, is large, and its size is not conducive to strategic planning and implementation. In order to successfully integrate the recommendations into practice statewide, a condensed committee composed of subject-matter experts should be established.

The advisory committee should be charged with establishing a plan to put approved recommendations into practice. The committee should assess the feasibility and priority of projects; consider policy, cost and funding issues; delineate tasks; identify responsible parties/staffing implications; coordinate communication and information management and establish and monitor timeframes for completion. The collective, cross-functional expertise of the following personnel/offices can facilitate the development and execution of the recommendations.

- Court Access Unit
- Information Technology Office
- Judicial Education and Development
- Judicial Education and Training Council (Vicinage Training Coordinators)
- Language Services Manager
- Litigant Services Manager
- Management and Administrative Services
- Minority Concerns Unit
- Municipal Court Administrator or Director
- Office of Communications and Community Relations
- Organizational Development and Training Unit
- Programs and Procedures Unit
- Trial Court Services Practice Divisions (civil, municipal, family, probation, criminal)
- Vicinage Ombudsmen
- Vicinage Practice Division Staff
- Volunteer Services Manager

Committee membership should be limited in number in order to be manageable, focused and organized. However, because the recommendations cut across all areas of operations, coordination of resources, collaboration and cooperation from all levels of the Judiciary is essential.

A HISTORY OF OVERCOMING CHALLENGES TO DELIVER JUSTICE

The New Jersey Judiciary is one of the most progressive court systems in the nation, having overcome many historically significant challenges with a Supreme Court firmly committed to the delivery of justice and furthering public trust. Supreme Court subcommittees and notable achievements designed to improve access to justice through effective policies, programs and services include the following.

- Task Force on Linguistic Minorities
- Supreme Court Committee on Minority Concerns
- Ad Hoc Working Group on Pro Se Materials
- Supreme Court Committee on Women in the Courts
- Task Force on Gay and Lesbian Issues
- New Jersey Judiciary Strategic Planning Committee Goals and Initiatives
- Publications: Forms, Brochures, Self-Help Kits
- Judiciary Electronic Filing and Imaging System (JEFIS)
- Appellate Division Electronic Filing
- New Jersey Municipal Court (NJMC) Direct
- Statewide Mediation/Complementary Dispute Resolution Programs
- Court Video Conferencing
- Volunteer Services Programs
- Vicinage Ombudsman Program
- The Judiciary InfoNet and Internet Web Sites
- Supreme Court Web Casts
- Translating and Interpreting Services
- “Welcome to the NJ State Courts” Poster – What Staff Can and Cannot Do
- “Giving Advice and Giving Assistance” Training for Court Staff
- Customer Service Training
- Domestic Violence Central Registry (DVCR)
- Electronic Temporary Restraining Orders (E-TRO)
- Diversity/Cultural Competency Training
- Mortgage Foreclosure Mediation Program
- Veterans Assistance Project

The recommendations presented in this action plan set forth specific initiatives that emphasize the Judiciary’s ongoing commitment to provide equal access to justice. Successful implementation requires leadership, support and collaboration from all levels of the organization. With these in place, the goals of ensuring an open door to justice in the New Jersey court system will continue to be achieved.

Appendix A: Recommendations Without Commentary

RECOMMENDATION 1

access to justice awareness initiative

Develop and implement a statewide court-community awareness initiative highlighting the Judiciary's commitment to provide equal access to justice while emphasizing and integrating key themes including, but not limited to:

- The Judiciary's mission
- The ethical obligation to ensure that access to the courts extends to both represented *and* self-represented litigants
- The expectation that judges and staff facilitate quality treatment of all court users by way of the court's core values, modernized operational and quality service practices and court-community partnerships.

RECOMMENDATION 2

comprehensive delivery system

Create a visual depiction of the framework for a "comprehensive delivery system" of justice, in which represented and self-represented litigants are served. This framework should be adopted statewide and used as a tool for:

- Internal and external awareness as well as public education and public relations
- Professional development and training for judges and staff
- Both broad and specific process analysis and realignment.

RECOMMENDATION 3

public seminars & workshops

Develop a statewide curriculum with consistent content/messages for the continued delivery of educational seminars and workshops on a variety of legal topics designed for the public and particularly self-represented litigants.

RECOMMENDATION 4

self-help reference guide

Create a comprehensive reference guide for self-represented litigants that includes an overview of the court system and key rules, procedures, rights and responsibilities as well as the potential complexities associated with proceeding without counsel.

RECOMMENDATION 5

self-represented litigation education

Develop and deliver training—mandatory for all Judiciary employees including judges, law clerks, managers, staff, municipal court administrators and volunteers—detailing the contemporary philosophy and operational realities of ensuring equal access to the courts for self-represented litigants.

RECOMMENDATION 6

procedural fairness education

Develop and deliver training—mandatory for all Judiciary employees including judges, law clerks, managers, staff, municipal court administrators and volunteers—that addresses the topic of procedural fairness and its correlation with the Judiciary’s mission, vision and core values.

RECOMMENDATION 7

court information desks

Maintain a central information desk in every Superior Court building or, at minimum, in every primary Superior Court location.

RECOMMENDATION 8

court resource centers

Establish a “court resource center” in every vicinage to provide enhanced one-on-one assistance and self-help services for self-represented litigants.

RECOMMENDATION 9

court resource teams

Assign staff or trained volunteers to serve as “court resource teams” that will be stationed directly outside of courtrooms and specifically responsible for assisting litigants before and after court proceedings.

RECOMMENDATION 10

court forms assistance

Implement a statewide policy that explicitly addresses the manner in which court staff can assist court users with completing court forms.

RECOMMENDATION 11

ada/njlad related assistance

Standardize the protocol for assisting litigants with limited English proficiency, physical or mental disabilities, or those in need of alternate arrangements for effective communication in accordance with the Americans with Disabilities Act (ADA) and New Jersey’s Law against Discrimination (NJLAD).

RECOMMENDATION 12

forms & publications working group

Establish a permanent forms and publications working group to develop, edit, review and standardize statewide forms, instructions and informational materials.

RECOMMENDATION 13

forms & publications assessment

Conduct a comprehensive review of all forms as well as instructional and informational materials to determine where simplified plain English language is feasible.

RECOMMENDATION 14

translation of forms & publications

Translate forms and instructional and informational materials for self-represented litigants in multiple foreign languages.

RECOMMENDATION 15

enhanced access to interpreting services

Establish and implement a statewide strategy for marketing the interpreting services available through the courts, including the required use of a language identification tool in assisting court users with limited English proficiency.

RECOMMENDATION 16

judiciary web site enhancements

Further refine and develop the Judiciary Web pages that are dedicated to inform, instruct and assist self-represented litigants.

RECOMMENDATION 17

multi-media self-help resources

Compile existing resources to develop educational tools, using various types of media and formats, to communicate detailed, step-by-step information about initiating a case; preparing for court; identifying what occurs in the courtroom; and what can be expected after a court appearance.

RECOMMENDATION 18

broaden reach for public opinion

Expand the means by which the Judiciary solicits and evaluates feedback from the public regarding the perception of “usability” in terms of court information and services.

RECOMMENDATION 19

self-represented data collection & evaluation

Develop the technology and methodology to track and evaluate the volume of self-represented litigants served by the New Jersey court system.

RECOMMENDATION 20

judicial guidelines on self-representation

Develop tools comprising judicial techniques for judges hearing cases involving self-represented litigants, possibly to include model scripts on how to start cases, how to deal with evidentiary issues and strategies for communicating with the parties in counsel and non-counsel situations.

RECOMMENDATION 21

after court strategies

Review present courtroom practices with an eye toward standardizing the information and instruction provided by judges, hearing officers/referees, courtroom staff and law clerks to self-represented litigants about post-hearing and post-judgment procedures and responsibilities, and explore the practice of referring self-represented litigants to available self-help services in more complicated matters.

RECOMMENDATION 22

student educational enrichment programs

Continue to foster court-community partnerships statewide by offering well-rounded educational programs about the courts to local school students and implementing such programs where not yet in place.

RECOMMENDATION 23

courthouse legal services

Explore the possibility of establishing a service plan with Legal Services of New Jersey, the New Jersey State Bar Association and other justice system stakeholders to provide self-represented litigants with legal services in the Superior Court.

RECOMMENDATION 24

statewide resource referral guide

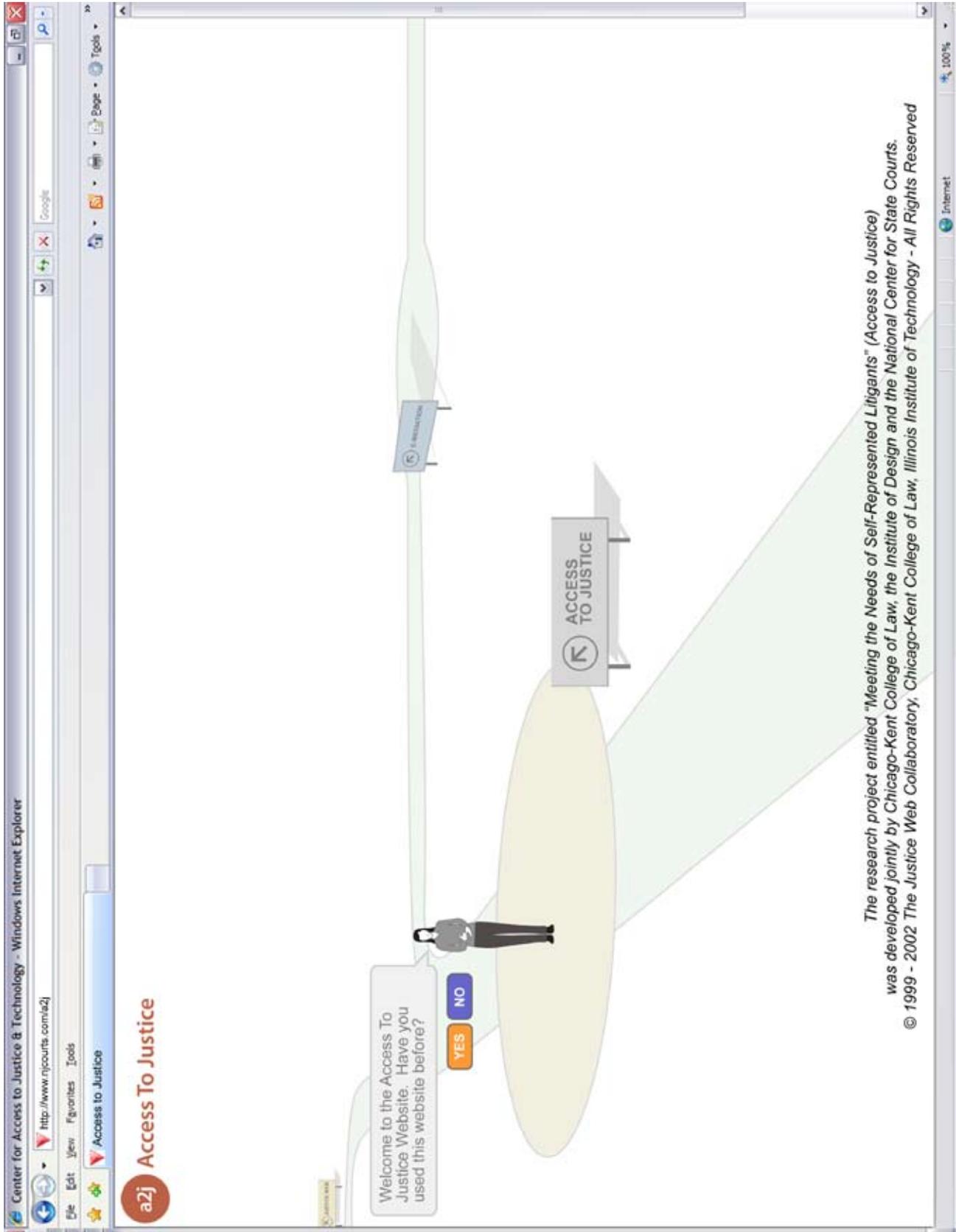
Develop a comprehensive state/county resource and referral guide to support appropriate referrals for services that the courts do not provide and facilitate opportunities for information exchange between the courts and the community.

RECOMMENDATION 25

long-term advisory committee

Condense and make permanent the Advisory Group on Self-Representation in the New Jersey Courts to continue to advise the Judiciary on related matters and to coordinate statewide efforts to implement the recommendations set forth in this action plan.

Appendix B: Sample Illustration - Comprehensive Delivery System



The research project entitled "Meeting the Needs of Self-Represented Litigants" (Access to Justice) was developed jointly by Chicago-Kent College of Law, the Institute of Design and the National Center for State Courts.
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Appendix C: Procedural Fairness in the California Courts

Respect • Voice • Neutrality • Trust



*Procedural Fairness
in the California Courts*

*A new statewide initiative aimed at ensuring fair process
for and quality treatment of court users, resulting in
higher trust and confidence in California's courts.*



JUDICIAL COUNCIL
OF CALIFORNIA

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Printed in the United States of America

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Publication EOP0004.07.1

Background

Research tells us that court user satisfaction with, approval of, and levels of trust and confidence in the courts are more closely linked with fair treatment than with favorable case outcomes. A growing body of national research indicates that public approval and confidence in the courts is linked to the public's sense that court decisions are made through fair processes. These findings build on other research that demonstrates that litigant satisfaction with the overall process and the quality of treatment received leads to the perception that the court's authority is legitimate, which in turn leads to increased compliance with court orders. The Judicial Council's phase I and II public trust and confidence studies, completed in 2005 and 2006, confirm these significant findings.



Procedural fairness refers to court users' perceptions regarding the fairness and the transparency of the processes by which their disputes are considered and resolved, as distinguished from the outcome of their cases. Perceptions of procedural fairness are also significantly affected by the quality of treatment they receive during every interaction with the court. The perceived fairness of court outcomes is also important but is consistently secondary to how court users perceive their cases to have been handled and the quality of treatment they received.

Court users' perceptions of procedural fairness are most significantly influenced by four key elements: respect, voice, neutrality, and trust.

2 PROCEDURAL FAIRNESS IN THE CALIFORNIA COURTS

Respect

People react positively when they feel they are treated with politeness, dignity, and respect and that their rights are respected. In addition, helping people understand how things work and what they must do is strongly associated with respect and court user satisfaction.

Actions that demonstrate respect

- Make appropriate eye contact; acknowledge court users and parties by name.
- Treat all people at counters and in the courtroom courteously and with respect; be sensitive to court users' discomfort in the public forum of a court.
- Continue to develop materials in plain English and in other languages commonly spoken; help court users understand what will happen in court.
- Ensure that litigants who require an interpreter—and the interpreters—are treated with dignity and respect.
- Respond to court users and hear their cases in a timely manner; be respectful of their time and avoid long waits and delays.



Voice

People want the opportunity to tell their side of the story, to explain their situation and views to an authority who listens carefully.

Actions that provide people a voice

- Give litigants the opportunity, within reason, to participate in court proceedings; be attentive and acknowledge or summarize what you have heard.
- Learn about specific cultural differences to avoid common miscommunications.
- Explain to litigants how information can be presented in court.
- Ensure that all speakers in court speak loudly, clearly, and slowly and do not talk over one another, particularly in situations where an interpreter is required.



4 PROCEDURAL FAIRNESS IN THE CALIFORNIA COURTS

Neutrality

People are more likely to accept court decisions when those in authority act with fairness and neutrality (i.e., users have been treated equally, and legal principles and assistance from court personnel were consistent). Users also respond more positively to court decisions when the importance of facts are emphasized and the reasons for a decision have been clearly explained.

Actions that demonstrate neutrality

- Be consistent in one's counter behavior, treatment of court users, courtroom actions, and rulings; explain court processes when they may seem inconsistent.
- Take responsibility for ensuring that litigants leave court with a clear understanding of the reasons for a decision and what is expected of them.



PROCEDURAL FAIRNESS IN THE CALIFORNIA COURTS 5

Trust

People observe behavior or look for actions to indicate that they can trust the character and sincerity of those in authority and that those in authority are aware of and sincerely concerned with their needs (e.g., they look for conduct that is benevolent and caring).

Actions that build trust

- Demonstrate through words and a sincere demeanor that the interests and needs of all parties will be fairly considered.
- Empower court staff to be important ambassadors for the judicial branch through their day-to-day interactions with the public; remind them that their actions affect public approval of the courts.
- State and reiterate that disputes will be resolved and rights will be protected; judges are the court's best asset when communicating with the public.



6 PROCEDURAL FAIRNESS IN THE CALIFORNIA COURTS

Procedural Fairness Initiative

Building on the momentum generated by the Judicial Council's 2005–2006 public trust and confidence assessment, the branch initiative on procedural fairness will focus on strategies to ensure that the public perceives the highest standards of fairness and quality treatment in court procedures. The council is committed to enhancing public trust and confidence in the California courts by supporting and promoting the branch policy of achieving procedural fairness in all types of cases. The initiative will:

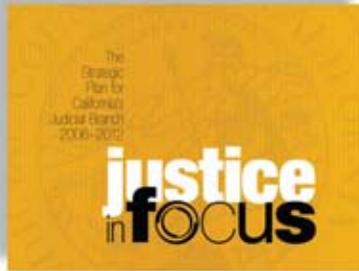
- Identify procedural fairness best practices and model programs;
- Study and evaluate efforts that have the potential to achieve procedural fairness for court users;
- Develop procedural fairness guidelines, tools, and resources for judicial officers and judicial branch personnel;
- Recommend educational programs and objectives to help judicial officers and personnel achieve procedural fairness; and
- Make periodic recommendations to the Judicial Council regarding a variety of strategies and means to help the courts achieve procedural fairness.

PROCEDURAL FAIRNESS IN THE CALIFORNIA COURTS 7

Resources

Justice in Focus

Policies that directly reference procedural fairness and focus on enhancing the court user experience are presented in *Justice in Focus: The Strategic Plan for California's Judicial Branch, 2006–2012*. The plan affirms the importance of listening to the public and of outreach and education in improving public understanding of the courts. It is available at www.courtinfo.ca.gov/reference/2_annual.htm.



Public Trust and Confidence

The Judicial Council's 2005–2006 public trust and confidence assessment led to the publication of two reports: *Trust and Confidence in the California Courts: A Survey of the Public and Attorneys* (2005), and *Trust and Confidence in the California Courts: Public Court Users and Judicial Branch Members Talk About the California Courts* (2006). Both reports are available online at www.courtinfo.ca.gov/reference/4_37pubtrust.htm.

Procedural Fairness

For additional information, a Web site has been established to feature model court programs regarding procedural fairness, provide additional resources and articles, and highlight the ongoing work of the initiative. It is located at www.courtinfo.ca.gov/programs/profair.

Appendix D: Draft Proposal – Court Forms Assistance

The Judiciary is committed to providing equal access to the courts. When litigants choose to represent themselves in court, they often seek assistance from Judiciary staff with completing court forms. Currently, Judiciary staff are authorized to complete certain forms for litigants in domestic violence cases (consistent with statutory mandates to assist DV victims); in certain child support matters (where we receive federal funding under title IV-D to assist child support obligees); and when an indigent defendant has a constitutional right to a defense attorney and is required to submit a “5A” application to request representation by a public defender. There is currently no established policy that sets forth whether staff should provide this service for other court forms such as do-it-yourself complaint packets or motion kits.

Some take the position that staff should not assist self-represented litigants with completing these types of court forms because doing so takes the courts out of its impartial role. On the other hand, the Judiciary maintains the principle that we provide equal access to the courts, particularly to a diverse population that may be uneducated and/or indigent and therefore unable to afford legal representation. Self-represented litigants are often unable to accurately complete mandatory forms due to the nature of the forms, low educational attainment, a disability or limited English proficiency (LEP). Currently, absent an established policy, many staff members are assisting litigants with completing court forms because failure to do so would deny litigants the opportunity to have their matter heard.

This proposed policy sets forth guidelines which, if implemented, will ensure that the New Jersey Judiciary maintains a uniform policy related to assisting self-represented litigants with completing court forms. The creation of a staff training and education program on an approved policy and guidelines is also critical to the establishment of this service initiative.

DRAFT POLICY

guidelines for assisting self-represented litigants with completing court forms

- 1) Before providing this assistance, staff should inquire as to whether the litigant has a friend, neighbor, family member, or other person who can provide assistance with the forms. If no one is available, staff should consider referring the self-represented litigant to a not-for-profit agency that has been identified as a referral source for this purpose. (A list of statewide and county resources will be created by the Manager of Litigant Services, together with the Vicinage Ombudsmen and others.) If alternative options are not applicable or if it is determined that it is a matter that must be handled immediately, Judiciary staff may assist with the physical writing/completing of forms in accordance with these guidelines.
- 2) Staff is limited to writing exactly what is dictated by the self-represented litigant. Staff should describe to the litigant the guidelines under which the assistance will be provided and establish that the litigant understands and agrees to the guidelines before proceeding. Litigants should be advised of the following guidelines:

“I cannot give you legal advice, and I cannot tell you what to include on the form. I will assist you with completing the form by asking you for the information required on the form and filling it out exactly as you tell me your answers. Once I have asked you for all of the required information, I will read it back to you to be sure that what you told me is accurate. If you agree that what is on the form is what you told me to write, I will stamp the form and you will sign it. Your signature on the document certifies to the court that the information you are providing is true to the best of your knowledge. The stamp is used to identify that I assisted you in completing the form. The stamp says,

A court representative assisted with the physical writing/typing of this document as dictated by the filing party. The Judiciary makes no claims as to the validity of the statements made herein. The form was completed by _____, of _____ (division/department), as dictated by _____, plaintiff/defendant (circle one).

Do you understand and agree to abide by these guidelines?”

- 3) If the litigant understands and agrees, staff can proceed with completing the form, but should first encourage the self-represented litigant to fill out as much of the form as possible (e.g., name, address, telephone number).
- 4) Most of our court forms can be filled out on the computer and printed to a local printer. Therefore, it is encouraged that, where available, staff use this technology when assisting self-represented litigants with completing court forms.
- 5) When the forms are completed, staff should use the stamp on every page where the filing party is required to sign his/her name and should fill out the required information.
- 6) The following will be included in the training curriculum used for all court employees:

“Dos and Don’ts” When Assisting Self-Represented Litigants With Completing Court Forms

- ✓ **Do** ask enough questions to be sure that the litigant has no other means of assistance to complete the forms.
- ✓ **Do** read the guidelines completely.
- ✓ **Do** reinforce your limited role in providing assistance, making it clear to the litigant that you are prohibited from giving legal advice or offering your opinion.
- ✓ **Do** ask the litigant for the information being sought on the form and write what the litigant says word-for-word.
- ✓ **Do** emphasize to the litigant that the form belongs to him/her and that everything that goes on the form has to come from him/her.

- ✓ **Don't** summarize what the litigant says.
- ✓ **Don't** re-word what the litigant says.
- ✓ **Don't** guide the litigant with what he/she should be saying.
- ✓ **Don't** tell a litigant what to put on a form. If the litigant asks questions such as “What should I put there?” or “Is that right?” explain that you cannot answer because doing so would be considered giving legal advice which you are prohibited from doing.
- ✓ **Don't** give an opinion about the case.

7) There are many scenarios under which self-represented litigants will seek this assistance. For example, an elderly person is confused and wants help; a person has difficulty reading, writing and/or speaking in English; or a person has a visual impairment. Regardless of the reason for the request, assistance with completing court forms should be provided once you have determined that the litigant has no other means of assistance.

It is important to note that although this service is being offered to all self-represented litigants, you may still need to provide an ADA accommodation when assisting someone with a disability (e.g., a deaf litigant may need an American Sign Language (ASL) interpreter or other accommodation).

In addition, if a litigant is limited English proficient (LEP), Directive #3-04, the Standards for Delivering Interpreting Services in the New Jersey Judiciary, should be followed.

- For litigants with a spoken language other than English:
 - If available, a qualified bilingual staff person should provide the service in lieu of using an interpreter.
 - If no qualified bilingual staff is available and the situation involves a form that, should there be a failure of communication it could result in significant negative repercussions, the court employee who would ordinarily assist an English-speaking litigant should assist the LEP litigant through a staff or contract interpreter provided by the Vicinage Coordinator of Interpreting Services (VCIS).
 - If no qualified bilingual staff is available and the situation involves a form that, should there be a failure of communication it would not result in significant negative repercussions, the court employee who would ordinarily assist an English-speaking litigant may use a lay interpreter such as a family member or friend who accompanies the litigant. NOTE: This is NOT the preferred method. The Comment to Standard 1.2 provides, “In the absence of qualified bilingual staff, the nature of the particular direct service event is crucial to determining whether to assign an interpreter. Doubts should always be resolved in favor of assigning an interpreter, even if doing so requires rescheduling the event. The ideal of justice dictates that, as resources become available, all direct service rendered to limited-English proficient persons should be provided either by qualified bilingual staff or with the assistance of a court-assigned interpreter.”

- No staff interpreter or contract interpreter should assist LEP litigants in filling out forms if there is no other court employee present. The role of the interpreter is to enable court employees and litigants to communicate with one another, not to provide assistance for litigants in staff's absence.
- If there is a need for future interpreting services or an ADA accommodation, (e.g., for a future court hearing) arrangements should be made in accordance with vicinage policy.

8) Other Considerations:

- Staff must first complete a training and education program on the approved policy and guidelines before assisting self-represented litigants with completing court forms.
- This policy does not require an additional staff person to be present to act as a witness.
- In certain circumstances and when appropriate, staff may refer litigants to the Office of the Ombudsman for additional assistance. (e.g., when there is a concern about neutrality because both parties in a case are seeking assistance with completing forms.)

Appendix E: Right to an Interpreter Poster

Interpreter Services

You have the right to an interpreter at no cost to you. Please point to your language. An interpreter will be called. Please wait.

Albanian

Shqip

Keni të drejtën për përkthyes falas gjatë vizitës mjekësore. Ju lutem tregoni me gisht gjuhën që flisni. Ju lutem prisni, do t'ju gjejnë një përkthyes për vizitën mjekësore.

Amharic

አማርኛ

የለምንም ዓይነት ለስተርጓሚ የጥገና ተግባር ለሌሎች ።
የሚኖሩትን የሚረዱበትን ቋንቋ ይመለከቱ ።
ለስተርጓሚ ለስደተኛ ድረስ ለሌሎች ይታዩ ።

Arabic

عربي

يحق لك الحصول على خدمات ترجمة فورية دون أي مقابل.
يرجى منك أن تشير بإصبعك إلى لُغتك كي نستدعي المترجم المناسب.
يرجى منك الانتظار لحين استدعاء المترجم.

Armenian

Հայերեն

Դուք ունեց անվճար թարգմանիչ ծառայություն անվճար դրժ.
Վստահվե՛ք: Ներդրում ենք անսխալաբար ձեր լեզուն և բարձրագույնը
կոնսուլտ: Խնդրում ենք սպասել:

Bengali

বাংলা

আপনার অধিকার রয়েছে বিনামূল্যে একজন দোভাষী পাওয়ার।
অনুগ্রহ করে আপনার ভাষা কোনটি তা দেখিয়ে দিন। একজন
দোভাষীকে ডাকা হবে। অনুগ্রহ করে অপেক্ষা করুন।

Capa Verdean Creole

Criolu di Cabu Verdi

Nhòs tem direito a um intérprete gratuito di nhòs língua.
Mostra qual qui nhòs língua pa nô podi thoma intérprete.
Nhòs aguarda um momento, por favor.

Chinese

中文

Cantonese | Mandarin | Taiwanese | Taiwanese-Fukienese | Min
广东话 | 国语 | 台语 | 台湾话/福建话 | 閩語

你有权要求一位免费的传译员。
请指出你的语言。传译员将为你服务，请稍候。

French

Français

Vous avez droit gratuitement aux services d'un interprète.
Veuillez indiquer votre langue. Nous allons contacter un
interprète. Veuillez patienter s'il vous plaît!

German

Deutsch

Sie haben kostenlosen Anspruch auf eine/n Dolmetscher/
in. Bitte deuten Sie auf Ihre Sprache. Ein/e Dolmetscher/
in wird gerufen. Bitte warten Sie.

Greek

Ελληνικά

Είνας δικαίωμα σας να χρησιμοποιήσετε δωρεάν
χωρίς καμία χρηματική επιβάρυνση. Ζητά παρακαλούμε,
υποδείξτε τη γλώσσα που μιλάτε. Θα ειδοποιήσουμε ένα
δωρεάν. Παρακαλώ περιμένετε.

Haitian Creole

Kreyòl Ayisyen

Ou gen dwa a yon entèprèt gratis. Tanpri montre nou lang
pa w la. N ap rèlé yon entèprèt pou ou. Tanpri ret tann.

Hebrew

עברית

יש לך זכות להשתמש בשירותיו של מתורגמן ללא
תשלום. אנא הצבע על השפה שלך. מיד ניצור קשר
עם מתורגמן. אנא המתן.

Hindi

हिन्दी

आपको नि:शुल्क दुभाषिया (अनुवादक) प्राप्त करने का अधिकार है।
कृपया अपनी भाषा की ओर इशारा करें। एक दुभाषिया
(अनुवादक) को बुलाया जाएगा। कृपया प्रतीक्षा करें।

Hmong

Hmoob

Koj muaj cai txais kev pab txhais lus dawb teis them nyiaj.
Thov tau tes rau koj hom lus nov. Mam hu tus txhais lus.
Thov nyob tos.

Italian

Italiano

Avete diritto ad un interprete. Il servizio è gratuito. Indicate
la vostra lingua e attendete; un interprete sarà chiamato al
più presto.

Japanese

日本語

通訳を無料でご利用になれます。該当する言語を指示し
て下さい。通訳を手配いたしますのでお待ち下さい。

Khmer

ខ្មែរ

លោក-អ្នកមានសិទ្ធិឱ្យមានអ្នកបកប្រែម្នាក់យោងមិនគិតថ្លៃ
សូមបញ្ជាក់ថា តើចង់បានបង់លោក-អ្នក
តើចង់បានប្រើឱ្យអ្នកបកប្រែម្នាក់មក សូមបញ្ជាក់ថា

Korean

언어

어려분은 무료로 전문 통역자의 도움을 받을 권리가 있습니다. 번역
의 "한국어"를 손가락으로 가르켜 주십시오. 전문 통역자에게 연결
될 것입니다. 잠시만 기다려 주십시오.

Laotian

ລາວ

ທ່ານມີສິດຂໍນາຍແປພາສາໂດຍບໍ່ເສັຽຄ່າ.
ກະລຸນາຮູ້ໃສ່ພາສາຂອງທ່ານ. ນາຍແປພາສາຈະຖືກເອ້ນມາ.
ກະລຸນາລໍຖ້າ.

Polish

Język polski

Masz prawo do korzystania z usług polskiego tłumacza.
Usługa ta jest na nasz koszt. Proszę wskazać swój język.
Proszę czekać. Łączymy z tłumaczem.

Portuguese

Português

Você tem o direito a um intérprete de graça. Por favor
aponte para a língua que você fala. Um intérprete será
chamado. Por favor espere.

Russian

Русский

Вы имеете право на услуги бесплатного
переводчика. Назовите, пожалуйста, свой
язык. Медицинский переводчик будет вызван.
Пожалуйста, подождите.

Serbo-Croatian

Srpsko-Hrvatski jezik

Vi imate pravo na besplatnog prevodioca. Molimo vas da
pokazete na vas govorni jezik. Lagalan prevodilac ce biti
pozvan. Hvala i molimo vas da sačekate.

Somali

Soomaali

Waxaad haq u leedahay in tarjumaan lacag la'aan ah
laguugu yeero. Fadlan farta ku fiq luqaddaada. Tarju-
maan ayaa laguugu wacayaa. Ee fadlan sugi!

Spanish

Español

Usted tiene derecho a un intérprete gratis. Por favor,
señale su idioma y llamaremos a un intérprete. Por favor,
espere.

Swahili

Swahili

Ni haki yako kuwa na mtafsiri bila malipo yoyote.
Tafadhali chagua lugha yako kati ya hizi.
Mtafsiri atahwa. Tafadhali ngoja.

Tagalog

Tagalog

Ikaw ay may karapatan na magkaroon ng tagapagsalin na
walang bayad. Ituro ang iyong wika. Ang tagapagsalin
ay tatawagin. Maghintay.

Thai

ไทย

ท่านมีสิทธิขอคำแปลภาษาโดยไม่มีค่าบริการใช้คำไทย
กรุณาชี้ที่ภาษาที่ท่านต้องการที่จะใช้คำไทย
เราจะโทรหาคำแปลโดยคำไทยที่ท่าน

Ukrainian

Українська

У Вас є право на безплатного перекладача. Будь
ласка, вкажіть на Вашу мову. І Вам поклинуть
перекладача. Зачекайте, будь ласка.

Urdu

اردو

آپ مفت ترجمانی کی خدمات کے مستحق ہیں
براہ کرم اپنی زبان کی طرف اشارہ کیجئے
آپ کے لئے ایک ترجمان کا انتظام کیا جائیگا
براہ کرم انتظار کیجئے

Vietnamese

Tiếng Việt

Quý vị có quyền được một thông dịch viên miễn phí.
Xin chỉ vào ngôn ngữ của quý vị. Chúng tôi sẽ gọi một
thông dịch viên. Vui lòng chờ trong giây lát.

Appendix F: Sample Protocol for Judges

PROPOSED PROTOCOL TO BE USED BY IDAHO JUDGES DURING HEARINGS INVOLVING SELF-REPRESENTED LITIGANTS¹

committee to increase access to the courts

Hon. Joel Horton, Chair

Idaho Judges are encouraged to use the following protocol when conducting hearings involving at least one self-represented party:

- 1) Verify that the party is not an attorney, that the party understands he or she is entitled to be represented by an attorney, and chooses to proceed pro se. Explain the risks and difficulty of self-representation. Suggest that the party contact the nearest Court Assistance Office for lawyer referral or other assistance.
- 2) Explain the process. “I will hear both sides in this matter. First I will listen to what the Plaintiff wants me to know about this case and then I will listen to what the Defendant wants me to know about this case. The witnesses for Plaintiff and Defendant will come up to the witness stand, be sworn, and then will provide their testimony in response to questions asked by the party who called them, by the other party, and perhaps by me. I will try to give each side enough time and opportunity to tell me their side of the case, but I must proceed in the order I indicated. So please do not interrupt while the other party is presenting their evidence. Everything that is said in court is [recorded] [taken down by a court reporter] and in order to insure that the court record is accurate, only one person can talk at a time. Wait until the person asking a question finishes before answering and the person asking the question should wait until the person answering the question finishes before asking the next question.”
- 3) Explain the elements. For example, in summary proceedings for eviction cases: “Plaintiff is requesting a judgment for possession of rental property. If Plaintiff can show that she is the owner of the property and that the defendant has breached the lease by failing to pay rent or in some other respect, I will enter the judgment Plaintiff has asked for. Based on that judgment, a writ of restitution can be issued by the Court Clerk ordering the sheriff to remove the Defendant from Plaintiff’s property and to restore possession of the property to the Plaintiff.
- 4) Explain that the party bringing the action has the burden to present evidence in support of the relief sought. For example, in eviction cases: “Because the Plaintiff has requested this order, she has to present evidence to show that a court order is needed. I will not consider any of the statements in the complaint that has been filed in this matter. I can only consider evidence that is presented here in court today. If Plaintiff is unable to present evidence that an order is needed,

¹ This proposed protocol is modeled after a protocol written by the Pro Se Implementation Committee of the Minnesota Conference of Chief Judges. It was adapted to Idaho court practices by Prof. Patrick D. Costello, Director of the Idaho Court Assistance Offices Project.

then I must dismiss this action. When I am done with this explanation, I will ask Plaintiff to call her first witness. The witness can be anyone who has first-hand knowledge of the facts of this case, Plaintiff, another person, or Defendant. ”

- 5) Explain the kind of evidence that may be presented. “Evidence can be in the form of testimony from the parties, testimony from other witnesses, or exhibits. Everyone who testifies will be placed under oath and will be subject to questioning by the other party. All exhibits must first be given an exhibit number by the court clerk and then the witness who is testifying and who can identify the exhibit must briefly describe it. The exhibit is then given to the other party who can look at the exhibit and let me know any reason why I should not consider that exhibit when I decide the case. I will then let you know whether the exhibit can be used as evidence.”
- 6) Explain the limits on the kind of evidence that can be considered. “I have to make my decision based upon the evidence that is admissible under the Rules of Evidence for courts in Idaho. If either party starts to present evidence that is not admissible, the other party may object. If I agree that the evidence is inadmissible I will sustain the objection, which means that I cannot consider that type of evidence. Some examples are irrelevant evidence and inadmissible hearsay. Irrelevant evidence is testimony or exhibits that do not help me understand or decide issues that are involved in this case. Hearsay is a statement made outside of court by a person who is not the opposing party which you want me to consider to be true; hearsay could be an oral statement that was overheard or a written statement such as a letter. Most hearsay is considered unreliable and is inadmissible.”
- 7) Ask both parties whether they understand the process and the procedure.
- 8) If non-attorneys are permitted to sit at counsel table with either party they may provide support but should not be permitted to argue on behalf of a party or to question witnesses.
- 9) Questioning by the judge should be directed at obtaining general information in order to avoid creating an appearance of advocacy. For example, in eviction cases: “Tell me why you believe the tenant has breached the lease. If you have specific incidents you want to tell me about, start with the most recent incident first and tell me when it happened, where it happened, who was present, and what happened.”
- 10) Whenever possible the matter should be decided and the order prepared immediately upon the conclusion of the hearing so it may be served on the parties.

Published by the



Stuart Rabner
Chief Justice

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

OCTOBER 2009