

Recent Access to Justice Strategies

Comparison of Justice for All Components with ABA Commission and Achieving Civil Justice for All

Justice for All Component

ABA Commision Recommendations

Achieving Civil Justsce For All Recommendations

Sources

Guidance for NCSC Grants for Strategic Planning funded by Public Welfare Foundation to implimentent CCJ/COSCA Resolution

<http://www.ncsc.org/~media/Microsites/Files/access/Justice%20for%20All%20Guidance%20Materials%20Final.ashx>

1. Design, Governance & Management

Key Elements: An established body and processes to address ATJ issues, ATJ body includes all relevant stakeholders, collection of user data and information (through surveys, focus groups, etc.), User membership on ATJ body.

2. Resource Planning

Key Elements: Staffing position dedicated to resource planning, existence of an updated resource budget

Report on the Future of Legal Services in the United States

http://www.americanbar.org/content/dam/aba/images/abane/2016FLSReport_FNL_WEB.pdf

6. The ABA should establish a Center for Innovation.

7. The legal profession should partner with other disciplines and the public for insights about innovating the delivery of legal services.

11. Outcomes derived from any established or new models for the delivery of legal services must be measured to evaluate effectiveness in fulfilling regulatory objectives.

12. The ABA and other bar associations should make the examination of the future of legal services part of their ongoing strategic long-range planning.

10. Resources should be vastly expanded to support long-standing efforts that have proven successful in addressing the public's unmet needs for legal services.

10.1. Legal aid and pro bono efforts must be expanded, fully-funded, and better-promoted.

NCSC/IILS Civil Justice Initiative Report endorsed by CC/COSCA Resolution

<http://www.ncsc.org/~media/Microsites/Files/Civil-Justice/NCSC-CJI-Report-Web.ashx>

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<u>3. Technology Capacity</u> Key Elements: User experience design expertise, multimedia design expertise, application integration expertise, process simplification expertise, facilitates remote access and resolution	2.3. States should explore how legal services are delivered by entities that employ new technologies and internet-based platforms and then assess the benefits and risks to the public associated with those services. 5.1. Physical and virtual access to courts should be expanded. 5.4. Court-annexed online dispute resolution systems should be piloted and, as appropriate, expanded. 6. The ABA should establish a Center for Innovation.	7. Reference in Commentary to value of technology in case management. 10. Use technology to establish case management, busines processes, collection of realtime information, analysis of dockets, and publish measurement data. 13.1 Courts should establish Internet portals and standalone portals to facilitate litigant access to court services. 13.4 Promote the use of audio and video services for court hearings.
<u>4. Triage, Referral, & Channel Integration</u> Key Elements: Identified, consistent triage and referral protocols & practices,	1. The legal profession should support the goal of providing some form of effective assistance for essential civil legal needs to all persons otherwise unable to afford a lawyer. 2.1 Courts should consider regulatory innovations in the area of legal services delivery. 4. Individuals should have regular legal checkups, and the ABA should create guide- lines for lawyers, bar associations, and others who develop and administer such checkups. Among the proposed protections: "Affordability: Legal checkups should be available free of charge or at low cost to people of limited or modest means. If providers charge for legal checkups, the price should be commensurate with the user's ability to pay and clearly disclosed in advance." 10.2. Public education about how to access legal services should be widely offered by the ABA, bar associations, courts, lawyers, legal services providers, and law schools.	2. Beginning at the time each case is filed, courts must match resources with the needs of the case. 3. Estblish a mandatorey pathway assisnment system wth three paths. 4. Streamlined pathway with Trial in 6 to 8 months, mandatory discovery. 5. Establish complex pathway with life-of-case judge, early caase conference, discovery timeline established by parties.
<u>5. Community Integration & Prevention</u> Key Elements: Robust information exchange between organizations, including cross training, community resources integrated into provider services, collecting and sharing information on user experience across providers, collaborative partnerships including social services providers, community outreach, enabled by a robust communication strategy, early issue identification and proactive robust referrals in a range of areas, education about dispute resolution without legal action, cross-training between organizations		

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<p><u>6. Judicial Education Programs</u></p> <p>Key Elements: State judicial and court staff education programs should follow adult learning principles, be dynamic and interactive, and address: engagement with self-represented litigants (e.g., reassure judges about engagement through questioning and principles of neutrality, share courtroom techniques that are most effective in providing access while protecting neutrality), availability of community resources and other referral opportunities, language access requirements and procedures, procedural fairness, change leadership for judges, cultural sensitivity.</p>	<p>No reference.</p>	<p>8. Training for judges and staff on right sized case management.</p>
<p><u>7. Broad Self-Help Informational Services</u></p> <p>Key Elements: All information provided in plain language, instructions on legal processes, applicable law, and how to prepare for and present a case, links to information and forms on other specific subject matters, including out-of-court resolution, materials optimized for mobile viewing, information on which courthouses hear what cases and court access (e.g., transportation), staffed self-help centers in/near courthouse or accessible in community, multiple channels of providing information (e.g., workshops, online).</p>	<p>5. Courts should be accessible, user-centric, and welcoming to all litigants, while ensuring fairness, impartiality, and due process.</p>	<p>11.2 In high volume and uncontested cases, "Courts must ensure that litigants have access to accurate and understandable information about court processes and appropriate tools such as standardized court forms and checklists for pleadings and discovery requests."</p> <p>13.3 Courts should" provide real-time azistance for navigating the litigation process."</p>

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<p><u>8. Plain Language Forms</u></p> <p>Key Elements: Implementation of standardized plain language forms, protocols for assessing and updating forms, testing for comprehensibility and usability, form data integration with the court information system.</p>	<p>8. The legal profession should adopt methods, policies, standards, and practices to best advance diversity and inclusion.</p> <p>The Legal Checkups Recommendation (4) states that they -- "should be available to the public in a wide variety of venues (for example, public libraries, domestic violence shelters, social services of ces, membership organizations, etc.)."</p> <p>5.2. Courts should consider streamlining litigation processes through uniform, plain-language forms and, where appropriate, expedited litigation procedures.</p> <p>In a very important advance, the ABA Report recommends: "The ABA, the National Center for State Courts, the Conference of Chief Justices, and the Conference of State Court Administrators should collaborate to create a National Commission on Uniform Court Forms, similar to the National Conference of Commissioners on Uniform State Laws. The purpose of the Commission would be to generate model forms to be used by both represented and unrepresented litigants on a multi-state basis in ways that create consistency and accommodate simplified technological document preparation."</p>	<p>11.2. In high volume and uncontested cases, "Courts must ensure that litigants have access to accurate and understandable information about court processes and appropriate tools such as standardized court forms and checklists for pleadings and discovery requests."</p> <p>13.1 Courts must "simplify court-litigant interfaces and screen out unnecessary technical toplexites."</p>
<p><u>9. Language Services Integration</u></p> <p>Key Elements: Language access services at all points of contact between LEP users and all legal system components including use of technology, quality of language access services and providers, planning and monitoring, increased availability of multilingual information and education, effective use of multi-lingual outreach and court and community agency staff.</p>	<p>5.3 Multilingual written materials should be adopted by courts, and the availability of qualified translators and interpreters should be expanded.</p>	
<p><u>10. Alternative Dispute Resolution Integration</u></p> <p>Key Elements: Provision of information about ADR modes and processes, substantive ADR law, and consequences, ADR information available online and integrated into portal, clear codes of ethics for the non-judicial neutrals, access to ADR modes provided within procedural context possibly through self-help, ethically appropriate collaborations between ATJ stakeholders and ADR providers.</p>	<p>5.4. Court-annexed online dispute resolution systems should be piloted and, as appropriate, expanded.</p>	<p>3.5 Reommends consideration, but recognizes different acceptnce by jurisdiction.</p> <p>6.4, 6.5 Informal communication encouraged on general pathway (see Triage) with Commentary noting that ADR should be considered on case by case basis, with concern about cost.</p>

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<p>11. Compliance Assistance</p> <p>Key Elements: Written orders and compliance information available immediately after hearing, use of plain language orders and judgments, explanations provided by judges and other court staff, reminders prior to deadlines, online tools to assist with compliance and enforcement, collaboration with stakeholders and users to identify common problems and ways to address them.</p>		<p>11.1 In high volume and uncontested cases, Courts must implement systems to ensure that the entry of final judgments complies with basic procedural requirements for notice, standing, timeliness, and su ciency of documentation supporting the relief sought."</p>
<p>12. Courtroom Assistance Services</p> <p>Key Elements: Instructional videos on logistics and procedures, in-person assistance, technology tools to support work of assistants, such as automated forms, technology tools for the judges to prepare final orders in the court room, training tools for personal assistants and court staff.</p>	<p>5. Courts should be accessible, user-centric, and welcoming to all litigants, while ensuring fairness, impartiality, and due process.</p>	<p>11.3 In high volume and uncontested cases, attention to non-distracting courtroom environment.</p>
<p>13. Expansion and Efficiency Improvements of Full Service Representation</p> <p>Key Elements: With the proviso that strategies will be different for free legal services versus market-based solutions, these include: assessment of existing service capacity in the state, factoring in geographic differences where they exist, identification of effective service pro bono, legal aid and market-based delivery strategies that have potential to be replicated or scaled up incorporation of litigation strategies that have the potential to impact many people and thus decrease the need for full representation in the future, training and assistance with implementation of best practices, for utilizing technology and process improvement, training and mentoring for pro bono volunteers, both on substantive issues and on how to work with low-income clients.</p>	<p>1. The legal profession should support the goal of providing some form of effective assistance for essential civil legal needs to all persons otherwise unable to afford a lawyer.</p>	<p>13.3 Courts should" provide real-time azistance for navigating the litigation process."</p>
	<p>7.2 Law schools and bar associations, including the ABA, should offer more continuing legal education and other opportunities for lawyers to study entrepreneurship, innovation, the business and economics of law practice, and other relevant disciplines.</p> <p>10.1. Legal aid and pro bono efforts must be expanded, fully-funded, and better-promoted.</p>	

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<p><u>14. Unbundled (Discrete Task) Legal Assistance</u></p> <p>Key Elements are: Lawyers willing to provide legal services on a discrete task (unbundled) basis, training and resources to support participating lawyers, screening, triage and referral components, processes for conclusion of limited scope representation, adoption of rules (e.g., ghostwriting, conflicts, limited appearance), full acceptance by the judiciary of the practice, good lines of communication between the limited scope attorney and the client.</p>	<p>Discussion in status of innovations section (at p.30, but no recommendations.</p>	
<p><u>15. Simplification</u></p> <p>Key Elements: One-stop shopping used to simplify user experience, streamlined internal court operations, including automated generation of orders and judgments, online dispute resolution, forms, legal documents and oral communications, face to face conversations use plain language, review of courtroom procedures to determine more effective ways of providing information, helping parties come to resolution, simplified court rules to eliminate unnecessary appearances and filings</p>	<p>5.2. Courts should consider streamlining litigation processes through uniform, plain-language forms and, where appropriate, expedited litigation procedures.</p> <p>2.1 Courts should consider regulatory innovations in the area of legal services delivery. (Specific Recommendations suggest how this might be done, including adoption of regulatory objectives, and state action.) Pp. 19-23 of the ABA Commission Report contains a detailed review of the status of non-lawyer innovations.</p>	<p>1. Courts should enforce rules relating to timelines</p> <p>12. Courts must manage uncontested cases to ensure steady timely progress towards resolution, including identification and prompting of unopposed case and protection of due process rights, ans inuding better documentation of service and requirements of plaintiff affidavit of validity in some types of cases.</p>
<p><u>16. Role Flexibility For Other Professionals</u></p> <p>Key Elements: Assist litigants in navigating court processes on-site, assist litigants in selecting and filling out forms, assist litigants in complying with legal processes for case actions with large numbers of self-represented litigants.</p>	<p>2.1 Courts should consider regulatory innovations in the area of legal services delivery. (Specific Recommendations suggest how this might be done, including adoption of regulatory objectives, and state action.) Pp. 19-23 of the ABA Commission Report contains a detailed review of the status of non-lawyer innovations.</p>	