

CONFERENCE OF CHIEF JUSTICES

CONFERENCE OF STATE COURT ADMINISTRATORS

Resolution 12

In Support of State Supreme Court Leadership to Promote Procedural Fairness

WHEREAS, a fundamental role of courts is to ensure fair processes and just outcomes for litigants; and

WHEREAS, the constitutional guarantee of due process is designed to ensure that court decisions are made through legally fair procedures; and

WHEREAS, extensive research demonstrates that in addition to providing legal due process, it is important also to meet the public's expectations regarding the process in order to increase positive public perceptions of the court system, reduce recidivism, and increase compliance with court orders; and

WHEREAS, a number of state courts have incorporated the key components of procedural fairness—voice (allowing litigants to be heard), neutrality (making decisions based on neutral, transparent principles), respectful treatment, and trust (the perception that the judge is sincere and caring)—into their judicial education programs, court performance measures, and public outreach information to focus attention on the importance of fair procedures as defined by the public; and

WHEREAS, resources have been developed to help the courts in addressing procedural fairness and incorporating such concepts into better decision-making, including two Policy Papers, *“Procedural Fairness: A Key Ingredient In Public Satisfaction”* and *“Minding The Court: Enhancing the Decision-Making Process,”* produced by the American Judges Association (AJA), and the website *“Proceduralfairness.org”*, created by AJA, the National Center for State Courts, and procedural fairness scholars; and

WHEREAS, embracing procedural fairness principles furthers judicial accountability associated with litigants’ perceptions of fair treatment, without reference to the merits of individual cases;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators encourage their members to take a leadership role in promoting the use of procedural fairness principles in their court systems; and

BE IT FURTHER RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators encourage their members to consider implementing the following strategies in their courts to promote procedural fairness:

- (1) Measure litigant satisfaction based on, among other factors, procedural fairness, using a measurement instrument such as the National Center for State Courts' CourTools Access and Fairness measure;
- (2) Encourage the integration of research on procedural fairness and effective decision-making processes into judicial education programs;
- (3) Identify opportunities for judges to obtain honest feedback and mentoring to build self-awareness and continue to develop as leaders in their courtrooms;
- (4) Practice procedural fairness in the treatment of court personnel;
- (5) Champion procedural fairness principles in messages to and interactions with the public, the media, and other branches of government; and
- (6) Hold judges and court staff accountable for operating courts in which everyone is treated with respect, has the opportunity to be heard, and receives an adequate explanation of court orders.

Adopted as proposed by the CCJ/COSCA Access, Fairness and Public Trust Committee at the 2013 Annual Meeting on July 31, 2013.