

*Respect • Voice • Neutrality • Trust*



# *Procedural Fairness*

## *in the California Courts*

*A 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

*Procedural Fairness in the California Courts*

© 2019 by Judicial Council of California

All rights reserved. Published 2019.

First edition published 2007. Second edition 2010.

Printed in the United States of America

For additional information, please contact:

Douglas Denton, Supervising Analyst

Center for Families, Children & the Courts

Judicial Council of California

455 Golden Gate Avenue

San Francisco, California 94102-3688

douglas.denton@jud.ca.gov

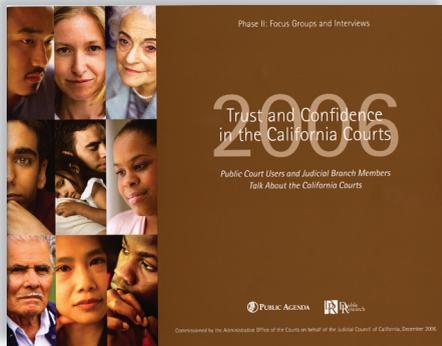
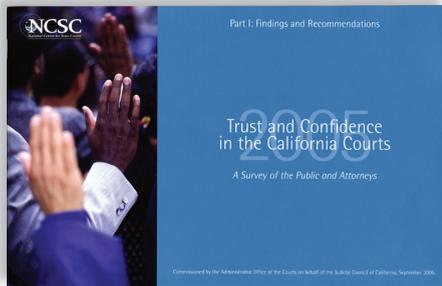
415-865-7870

Publication also available on the California Courts

website at [www.courts.ca.gov/programs-profair.htm](http://www.courts.ca.gov/programs-profair.htm)

# 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 are 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*

*P*rocedural fairness refers to court users' perceptions regarding the fairness and transparency of the processes by which their disputes are considered and resolved, as distinguished from the outcomes 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.*

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 commonly spoken languages; 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.



People are more likely to accept court decisions when those in authority act with fairness and neutrality (i.e., users were 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 is 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.



# 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 courts' best asset when communicating with the public.



## *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 focused 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:

- ♦ Identified procedural fairness best practices and model programs;
- ♦ Studied and evaluated efforts that have the potential to achieve procedural fairness for court users;
- ♦ Developed procedural fairness guidelines, tools, and resources for judicial officers and judicial branch personnel;
- ♦ Recommended educational programs and objectives to help judicial officers and personnel achieve procedural fairness; and
- ♦ Made periodic recommendations to the Judicial Council regarding a variety of strategies and means to help the courts achieve procedural fairness.

## Resources

### *Justice in Focus*

Policies that directly reference procedural fairness and focus on enhancing the court user experience are presented on “The Strategic Plan for California’s Judicial Branch,” a webpage of the California Courts website. 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.courts.ca.gov/3045.htm](http://www.courts.ca.gov/3045.htm)



### *Public Trust & 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.courts.ca.gov/5275.htm](http://www.courts.ca.gov/5275.htm).

### *Procedural Fairness*

The procedural fairness initiative resulted in a report, *Procedural Fairness in California: Initiatives, Challenges, and Recommendations* (May 2011), prepared by the Judicial Council and the Center for Court Innovation. It describes initiatives underway in California’s civil and traffic courts and recommends ways to enhance and improve public perceptions of procedural fairness. The report also contains a brief self-assessment tool that court administrators can use to examine procedural fairness in their local jurisdictions. The report is available at [www.courts.ca.gov/programs-profair.htm](http://www.courts.ca.gov/programs-profair.htm).



JUDICIAL COUNCIL OF CALIFORNIA  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688