

CONFERENCE OF CHIEF JUSTICES CONFERENCE OF STATE COURT ADMINISTRATORS

Resolution 1

Ensuring Access to Justice for Limited English Proficient Individuals

WHEREAS, access to justice for all individuals is and must be a national concern; and

WHEREAS, the Conference of Chief Justices (CCJ), the Conference of State Court Administrators (COSCA), the American Bar Association (ABA), the U. S. Department of Justice, federal courts, and governmental agencies all agree that indigent civil litigants who have limited English proficiency face particular challenges and hardships in accessing and navigating the justice system; and

WHEREAS, both Conferences have long endorsed providing interpreters in criminal cases and have established the Consortium for Language Access in the Courts, proposed federal legislation to establish a grant program to assist state courts in enhancing and expanding court interpreter services, supported development of education programs for judges and court administrators concerning access to justice by the National Center for State Courts, and encouraged the establishment of commissions to improve access to justice; and

WHEREAS, the ABA established the Language Access Project in September 2010 to develop access to justice standards for state courts; and

WHEREAS, the Conferences gave numerous written and verbal comments and recommendations to the advisory committee for the Language Access Project, yet the proposed standards and resolution were not modified to reflect the Conferences' concerns about the legal, practical, and logistical challenges that would accompany implementation, including:

1. The proposed standards are based upon unsettled fundamental legal premises; and
2. The proposed standards place the entire responsibility for implementation on the state courts without placing corresponding responsibilities on the federal judicial system or state administrative adjudicatory agencies; and
3. The unprecedented fiscal crisis facing state courts places severe constraints on the ability of courts to provide services that are not constitutionally mandated; and
4. The proposed standards do not sufficiently recognize the limitations on state court authority and the requirements of separation of powers; and
5. The proposed standards mandate providing interpreters in such non-court settings as depositions, witness interviews, and the like; and

WHEREAS, access to justice is a critical issue that must be embraced by all levels and branches of state and federal government; and

WHEREAS, all courts and administrative adjudicatory agencies recognize the desirability of maximizing access to justice, but cannot meet that goal fully without assistance from the federal and state executive and legislative branches; and

WHEREAS, despite the Conferences' request that the ABA postpone action, the proposed standards will nevertheless be submitted for approval to the ABA House of Delegates at the 2011 ABA Annual Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators:

1. Reaffirm their commitment to access to justice for limited English proficient individuals and urge their members to take a leadership role to identify and to address gaps in language access services in their respective jurisdictions; and
2. Call for continued national efforts to increase language access services, including implementation of the 2007 COSCA "White Paper on Court Interpretation: Fundamental to Access to Justice" recommendations previously adopted by the Conferences; and
3. Convene a roundtable of state court leaders and representatives of the U. S. Department of Justice, state and federal executive and legislative branches, the ABA, and other stakeholders to identify practical steps and resources necessary for addressing access to justice issues for limited English proficient individuals, especially those most vulnerable and susceptible to denial of basic needs; and
4. Host a national summit bringing together chief justice-led state teams comprised of representatives from all three branches of government and the state bar to develop state specific strategies for improving access to justice for limited English proficient individuals;

BE IT FURTHER RESOLVED that the Conferences oppose adoption of the proposed ABA language access standards.