



Supported Resolution 6—2022

In Support of Clear Policies for Virtual and Remote Hearings Post-Pandemic

CONFERENCE OF CHIEF JUSTICES

CONFERENCE OF STATE COURT ADMINISTRATORS

WHEREAS, at their 2020 Annual Meeting, the Conference of Chief Justices and the Conference of State Court Administrators adopted Resolution 1, which sets forth six principles to guide technological changes for post-pandemic court technology; and

WHEREAS, at their 2021 Annual Meeting, the Conference of Chief Justices and the Conference of State Court Administrators adopted Resolution 2, urging courts to apply the guiding principles for court technology to remote and virtual hearings and support technological innovations to facilitate access to justice, so that all court users obtain the help they need and are treated fairly and with dignity; and

WHEREAS, during the COVID-19 pandemic, technology has been a vital tool to enable courts to maintain operations and has been an important learning opportunity for courts; and

WHEREAS, the ability to participate in remote and virtual hearings through videoconferencing or telephonic appearances may bring benefits to attorneys, parties, and self-represented litigants, including saving time and resources; and

WHEREAS, some courts have ceased using remote and virtual hearings in some or all cases, thereby requiring court users, the public, and court employees to return to the courthouse in person to complete court hearings; and

WHEREAS, preliminary data suggests that appearance rates at court hearings are higher when litigants can appear remotely or virtually; and

WHEREAS, the public's ability to observe court proceedings online may enhance public understanding of, and confidence in, the fairness and impartiality of courts and judges; and

WHEREAS, the use of technology, and its possible expansion to include hybrid hearings, also raises critical questions about litigants' rights and their access to justice, and what courts and other stakeholders can do to mitigate any potential harms; and

WHEREAS, even as courts transition towards more in-person court operations, courts should not stop the usage or adoption of technology for court operations, including the filing of court documents, jury selection, and remote and virtual hearings; and

WHEREAS, the Conference of Chief Justices and Conference of State Court Administrators recognize that courts should continue to leverage technology to ensure litigant access to procedural and legal information and court services, and to make appearances possible and safe via remote and virtual means when practicable; and

WHEREAS, some jurisdictions have already established policies governing how remote and virtual hearings are to be conducted going forward;

NOW, THEREFORE, BE IT RESOLVED, that the Conference of Chief Justices and the Conference of State Court Administrators urge their members to adopt policies at the state level regarding the use of remote and virtual hearings to ensure the continued use of remote hearings where appropriate and to ensure consistency, fairness, and safety in the conduct of remote hearings.

In developing these policies, we urge courts to:

1. Assess what technology platforms are best suited to the needs of the court and users
2. Ensure that all court users are able to participate in remote and virtual hearings regardless of access to equipment, broadband or comfort with technology;
3. Determine whether there are categories of hearings that are better suited to remote and virtual formats, while continuing to think creatively about how to expand the use of remote and virtual hearings to other case types;
4. Ensure that language access resources and accommodations under the Americans with Disabilities Act are provided to litigants in remote and virtual proceedings;
5. Draft these remote hearing policies in plain language and share them widely so that court users, the public, and court employees understand what is permissible;
6. Collect data and user feedback about remote and virtual hearings; and
7. Assess remote hearing policies regularly and adjust these policies as needed.

BE IT FURTHER RESOLVED, that the Conference of Chief Justices and the Conference of State Court Administrators urge the National Center for State Courts to engage in rigorous evaluation of innovative efforts, provide guidance, develop best practices, and share resources on the continued use of remote and virtual hearings; and

BE IT FURTHER RESOLVED, that the Conference of Chief Justices and the Conference of State Court Administrators offer leadership and encourage, where appropriate, collaborations with federal, state, and local government agencies and legislative bodies, private funders, and other civil justice system partners to support and provide financial resources to increase broadband and address other solutions that reduce the barriers to technology access.

Adopted as proposed by the CCJ/COSCA Access and Fairness Committee at the CCJ/COSCA 2022 Annual Meeting on July 27, 2022.

On December 6, 2022, the NACM Board voted to support this resolution.