

# CCJ/COSCA Guiding Principles for Civil Diversion Programs

## Civil Diversion Definition:

“Programs that operate within or adjacent to the formal court process to provide litigants with the time, information, and resources to resolve disputes in a less harmful way. This may include eviction diversion, mortgage foreclosure mediation, consumer credit card diversion, or other types of programs; but excludes independent mediation programs, rental assistance programs, or other diversion programs that are not court-connected.”

## 1. Courts should implement civil diversion programs that create alternative pathways for litigants to resolve disputes outside of traditional litigation.

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A growing majority of civil cases in state courts are filed in high-volume dockets, such as: landlord-tenant, small claims, and debt collection. This heavy filing volume can place a strain on state courts, many of which already struggle with inadequate funding and staffing levels. Civil diversion programs can ease the burden on state courts and litigants by offering alternative pathways for resolving disputes, particularly those involving self-represented litigants. Diversion programs can also bolster public trust and improve appearance rates by connecting litigants with stabilizing community resources.

## 2. Diversion programs should be collaborative partnerships between courts and community partners.

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Courts should engage partner organizations to support community members in resolving their legal disputes through civil diversion programs. Most civil diversion programs include partnerships with legal aid, pro bono organizations, and/or mediation centers to help the parties understand their legal issues and find common ground. Diversion programs can be further enhanced through partnerships with financial and social service programs offering wraparound support to address other unmet needs. Common partners include rental assistance providers, financial counselors, housing navigators, medical or public-school social workers, veterans' groups, and other entities that address housing and financial stability.

Courts should work in collaboration with civil diversion program partners to identify cases that are appropriate for diversion and to facilitate effective referrals to program partners. Courts can further support civil diversion program partners through data-sharing agreements and by providing physical or virtual space for the program partners to meet with litigants before or after court proceedings.

### 3. Diversion programs should have clearly defined eligibility criteria and points of entry.

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Courts, funders, community organizations, and other program partners should work together to determine the eligibility criteria for the civil diversion program and the process by which litigants will access the program. Programs may be limited based on many factors including the nature and timing of the case, the income of the parties, or the capacity of the service providers. They may be opt-in programs (where litigants must affirmatively request to participate in the civil diversion program) or opt-out programs (where judges or staff screen and refer cases into the civil diversion program). In some jurisdictions, rules or statutes may mandate that parties attempt to resolve a dispute through diversion before moving forward with court proceedings.

### 4. Courts should take proactive steps to inform the community about civil diversion programs and to encourage or incentivize participation.

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Courts and community partners should work together to inform the public about the diversion program and the benefits of participation. At a minimum, courts should consider sharing information about relevant civil diversion programs with the initial Summons & Complaint or by mailing information to litigants after a case is filed. Courts and community partners may also supplement court notices with text messaging reminders, mailers, social media posts, community outreach campaigns, public transportation ads, or other outreach efforts.

Courts may consider adopting rules or policies to encourage or incentivize participation in a civil diversion program. For example, courts may waive or reduce filing fees for plaintiffs who use a diversion program to resolve a dispute. Courts may also offer expedited court dates for individuals who attempt to use a diversion program but are unsuccessful.

### 5. Courts should collect and share data on their diversion programs and adjust as necessary to meet the evolving needs of the community.

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Diversion programs need ongoing maintenance to ensure they reach the desired goals and work well for all program partners. Courts and program partners should meet regularly to monitor how well a program is working. They should also consider collecting and sharing supplemental data as appropriate to understand and improve program operations. As community needs evolve and program partners change, diversion programs may need to adapt eligibility criteria, timing, outreach strategies, or other elements to remain effective.



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