



PROCEDURAL FAIRNESS

for Judicial Officers and Court Personnel

Facilitator Guide





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Overview

Thank you for taking on the role of facilitating group discussions about the “Procedural Fairness for Judicial Officers and Court Personnel” course. This Facilitator Guide is provided to help you engage your colleagues and peers on the topic of procedural fairness, with the goal of improving public trust and confidence in the court.

About the course:

The online course takes approximately 60 minutes to complete all six lessons. The course can be paused and resumed at any time. There are quizzes at the end of each lesson but the course will not record participants’ answers. The course has two primary goals: to provide learners with the tools to (1) build public trust and (2) practice procedural fairness.

About this guide:

The facilitator guide is designed as a companion to the course and provides facilitated discussion for each lesson, as well as action items to be completed between lessons and discussion sessions.

Two models are presented below: a “deep dive”, where participants will have the opportunity to complete action items in between sessions, and a concentrated session (recommended length: 90 minutes) where discussion of the entire online course is conducted. Note that there are two options within the deep dive – a 12-week session and a 6-week session.

This format will allow participants to explore each lesson in more depth as a group, then reflect on and practice specific elements between meetings. The pace of the facilitated course is designed to be flexible but recommended to be delivered piecemeal. Participants should complete each self-directed online lesson on their own, then meet for one 60-minute facilitated discussion every two to four weeks, totaling six (6) hours of facilitated discussion and one (1) hour of online learning.

There is also a **Participant Guide** for use by the learners, which is provided in the appendix.

Both guides are organized by lesson with specific considerations for each section, including:

- **Lesson Learning Objectives**
 - These summarize the learning objectives for each lesson and match those outlined within the course itself.
- **Facilitator Notes & Questions** – included in Facilitator Guide only
 - Facilitation questions are provided as a way to spur further discussion among learners about the lesson. These include a mix of questions posed directly within the course, as well as others relevant to each lesson.
 - Many questions are designed to be applicable to both judges and court staff. Others are tailored to a judges-only or non-judicial-staff audience.
 - Sample answers are provided for most questions to seed the discussion. They are not intended as comprehensive or complete answers to questions that often have many “right” answers.
 - Discussion questions will also include review of the “Activity” or quiz questions for each lesson. We encourage you to review the correct answers and address any points of confusion.
 - Discussion of these questions and answers is designed to occur in an in-person or virtual “live” context. If needed, facilitators could use the discussion questions asynchronously by sending out questions in advance for learners to consider and report back in writing or via live discussion at a future date.

- Preparation needed before facilitating each discussion are noted at the top of this section for each lesson. This may include required reading or other helpful references to have on hand.
- There are sections for you to add “Additional Notes/Questions” you may want to use to enhance each lesson’s facilitation, time permitting. You may also opt to eliminate questions due to time restrictions or to better meet the needs of your learners.
- **Review and Reflect**
 - Most lessons in the course have at least one “Activity” or quiz to test your understanding. The questions are repeated here for your reference and reflection. Answers are provided in the online course.
- **Topics for Consideration/Discussion**
 - This section outlines questions you can consider to further explore the content in each lesson. Some of these questions for consideration are role-specific: for judges or for non-judicial staff. These questions will be most valuable if participants make efforts to write down specific answers as opposed to solely reading the questions.
 - This section also includes progress checks on action items from the previous lesson.
- **Action Items**
 - Action items are suggested activities learners may engage in after each lesson’s discussion as a way to deepen their understanding and practice and/or prepare for the next lesson. These are optional but are suggested as concrete ways to deepen your understanding and practice and/or prepare for the next lesson.
 - Some action items are role-specific for judges or non-judicial staff.
 - Action items cite relevant resources that were referenced in the lesson or others that may be useful follow-up items for learners.
 - Blank action items are provided for follow-up items generated by the discussion, such as suggesting new policies or approaches to court leadership or pilot testing a new practice.
- **Key Takeaways & Resources**
 - These summarize the primary takeaways of each lesson.
 - Resources cited in each lesson are listed here, as well.
- **Parking Lot (Questions/Ideas for Future Consideration)** – included in Facilitator Guide only. Parking Lot is titled “Notes/Questions” in Participant Guide.
 - The Parking Lot is a place facilitators can track questions that come up during the course that should be pinned for later discussion.

Resources:

In addition to familiarizing yourself with the course and this guide, we also recommend that you review each of the resources in the course Resources Tab. The “Procedural Fairness Resource Document,” included and annotated in the Appendix, outlines many useful tools, articles, and videos you may want to recommend to individuals in your facilitation group throughout the course – labeled according to the relevant lesson of the course. There are also downloadable presentation slides from a similar course that has been taught by the Toledo Municipal Court (OH) in the event those slides are helpful to you as references or direct facilitation tools.

General facilitation notes on this topic:

Procedural Fairness is a unique training topic for court professionals in several ways. Below are some aspects to anticipate, in addition to any concerns you recall wrestling with when you were new to the topic. You should be ready to engage learners on these questions and concerns throughout the course. Lesson 5 is dedicated to addressing a range of potential concerns or myths concerning the topic, including some of these below.

1. First, procedural fairness may be perceived as “soft” compared to other legal training topics or skills. Indeed, it is a concept based on human nature and human psychology and thus is more closely connected to soft skills than the traditional “hard skills.” That does not minimize its importance or utility, however. This course aims to present the evidence basis for the topic, as well as tangible skills to implement it.
2. Second, no matter what level of familiarity court professionals have with the term “procedural fairness,” most professionals already practice some aspects of procedural fairness. Even for first-time learners, it will not be a new concept in that regard. Anticipate that some learners’ immediate reaction may be: “I do these things already.” What *is* likely to be new, however, is the framework through which procedural fairness is presented and the evidence suggesting significant benefits when court professionals apply its principles. This course aims to help court professionals apply the principles and practices more systematically and comprehensively than they may have previously.
3. Third, learners will likely bring different philosophies to the course about the purposes of courts and different roles within them. Some may argue that “it’s not my job to be nice to people” or “courts deserve to be respected by the public, not the other way around.” This course aims to reframe these concerns and show that, indeed, fairness and perceptions of fairness are core to the court’s mission, and garnering respect from the public is one component of ensuring perceptions of fairness. Instead of assuming that the court’s authority and legitimacy is a given, this topic helps ensure that legitimacy is bolstered whenever possible in support of its core purposes.
4. Finally, some learners may have concerns about prioritizing procedural fairness amidst concerns about other aspects of unfairness in the legal system. Indeed, many courts face significant challenges in ensuring that their processes and outcomes are fair. Procedural fairness is not separate from fairness efforts but rather a critical component. This course aims to frame court improvements and enhanced fairness from the court user perspective.

Suggested Delivery Formats:

Concentrated Session:

For courts needing a less time-intensive option, this Guide could be adapted and condensed for use as a one-time follow-up discussion after participants have completed the entire course on their own. It is recommended that an abridged facilitated discussion last at least 90 minutes to allow for full review of the key concepts, albeit to a lesser degree than outlined here.

Multi-week sessions:

Sample 6-week schedule:

Pre-Course Assignment: Participants complete Lesson 1 of online course

Week 1	Week 2	Week 3	Week 4	Week 5	Week 6
Participants meet for facilitated discussion of Lesson 1	Participants meet for facilitated discussion of Lesson 2	Participants meet for facilitated discussion of Lesson 3	Participants meet for facilitated discussion of Lesson 4	Participants meet for facilitated discussion of Lesson 5	Participants meet for facilitated discussion of Lesson 6 and wrapup session
Participants complete Lesson 2 of online course and complete other action items	Participants complete Lesson 3 of online course and complete other action items	Participants complete Lesson 4 of online course	Participants complete Lesson 5 of online course and complete other action items	Participants complete Lesson 6 of online course and complete other action items	

Sample 12-week schedule:

Week 1	Week 2	Week 3	Week 4	Week 5	Week 6
Participants complete Lesson 1 of online course	Participants meet for facilitated discussion of Lesson 1	Participants complete Lesson 2 of online course and complete other action items	Participants meet for facilitated discussion of Lesson 2	Participants complete Lesson 3 of online course and complete other action items	Participants meet for facilitated discussion of Lesson 3
Week 7	Week 8	Week 9	Week 10	Week 11	Week 12
Participants complete Lesson 4 of online course	Participants meet for facilitated discussion of Lesson 4	Participants complete Lesson 5 of online course and complete other action items	Participants meet for facilitated discussion of Lesson 5	Participants complete Lesson 6 of online course and complete other action items	Participants meet for facilitated discussion of Lesson 6 and wrapup session



LESSON 1: Introduction to Procedural Fairness

Lesson Learning Objectives:

As a result of completing this lesson, participants will be able to:

- Identify tools to build public trust and practice procedural fairness in interactions with court users and other members of the public
- Define procedural fairness

Facilitator Notes/Questions:

Facilitator prep:

1. Ask participants to bring their court's mission, vision and/or values statement to the session. For those facilitating a session with colleagues in your own court, provide a copy of the statement(s) to all those participating to facilitate discussion of the questions below.
2. Also in advance of this lesson's discussion, explore where the statement(s) are posted for staff and members of the public, if at all.
3. Download or have available the [Purposes of Courts Reformulated](#) document as a reference. Note that this version of the Purposes of Courts is updated from the version enumerated in the course. There is a discussion question below to help participants reconcile the differences relevant to this course.

1) Review and discuss: Lesson 1 "Activity" answers

[10 minutes]

- **QUESTION 1:** True or False (Check One): The appearance of doing individual justice in individual cases is a distinct purpose of courts, separate from doing justice.

ANSWER:

ANSWER: TRUE. If justice is not seen to be done through transparency and accountability, the public's trust and confidence in the courts will erode.

* **FACILITATOR NOTE:** Victor Flango, former vice president of Research and Technology at the National Center for State Courts, revised the purposes of courts in 2018. Note that the reformulated version includes a specific purpose (#6): "To promote public trust and confidence in the courts," which lists the elements of procedural fairness. This provides an even clearer mandate for courts to prioritize procedural fairness, whereas the original purposes included "to be seen as doing justice" (#2).

- **QUESTION 2:** True or False (Check One): Research has shown that when court users feel they're being treated fairly (regardless of the type of court or the court outcome), they're more likely to comply with court orders and procedures.

ANSWER:

ANSWER: TRUE. Studies have shown that when court users experience specific elements of fair treatment (namely, voice, respect, neutrality, and trust), they are more likely to feel that the process was fair and comply with court orders and procedures.

Additional Notes/Questions:



Topics for Consideration/Discussion

What is Procedural Fairness?

- Do you have preconceptions about the value of changing court users' and the public's perceptions of the court? Do you think such change is possible based on how you interact with them?
- What was your instinct about what's most influential in determining perceptions of fairness: the outcome of the case or how someone was treated along the way?

2) Discuss: Purposes of Courts

[15 minutes]

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Summary: The 8 Purposes of Courts

Think about how knowing the purposes of courts impacts how you think about your work

How does your work reflect the purposes and responsibilities of courts?

How does the oath you took impact how you think about your job?

Can you "do justice" if the public we serve doesn't actually perceive that justice is being done?

Select Next to continue



- How does knowing the "purposes of courts" impact how you think about your work? How did the purposes – as relevant to procedural fairness - change in the reformulated version?

Sample answer: *I hadn't thought much before about the "appearance of justice" before. That's not something I was trained to do or think about. I can see now that the revised Purposes name procedural fairness explicitly.*

- In what ways does your work reflect the purposes and responsibilities of courts?

Sample answer: *I go to work every day because I believe in our court system and its values. My personal mission and values to be a valuable public servant are aligned with the responsibilities of courts.*

- Can you “do justice” if the public we serve doesn’t actually perceive that justice is being done?

Sample answer: *According to the original Purposes and Responsibilities of courts, those are distinct objectives. Further, the reformulated Purposes now focus specifically on promoting public trust and confidence as distinct purpose.*

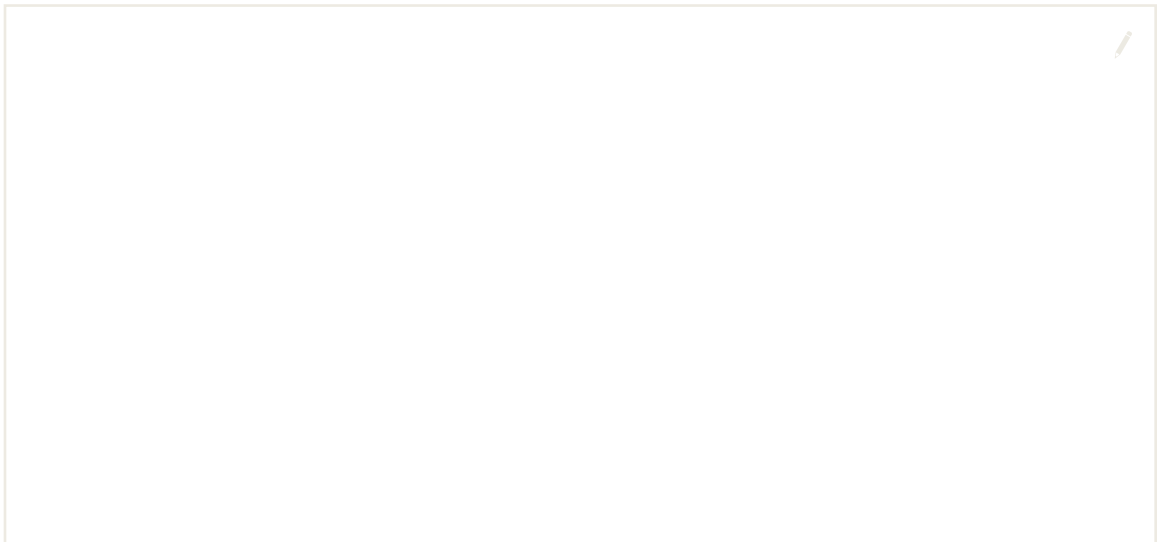
- What role does public trust play in executing these responsibilities?

Sample answer: *In a broad sense, we need the public’s trust in order to support (and fund) our courts. We also need the public’s trust to work collaboratively to resolve their legal matters.*

- What happens if the court does not have the public’s trust?


Sample answer: *If the public doesn’t trust us, it will be difficult to influence their perceptions of the court in a positive direction. They may misconstrue our efforts as other than “justice” or “fairness,” even if we think we’re achieving our purposes.*

Additional Notes/ Questions



3) Review and discuss: Sample mission, vision, and values statements [15 minutes]

Screenshots [Lesson 1.8]




Mission Statement Examples

To resolve matters fairly and timely in accordance with the law by providing an impartial, independent, and dignified forum, in order to promote respect for the Rule of Law, engender public confidence and trust, and protect individual rights and liberties

To protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes

To provide fair, efficient, and effective justice for all

To provide an independent forum to (1) resolve legal disputes in a fair, efficient, and effective manner, and (2) protect the right of all parties before the Court pursuant to state law and the state and federal constitution



Vision Statement Examples

The Court advances justice for all who come before it. We are an efficient, innovative, and accessible court system that works collaboratively with justice partners to serve the community with integrity and transparency.

The Court will resolve disputes fairly, in a manner that promotes public trust and confidence. We will be innovative, efficient, and provide equal meaningful access to justice. Judicial officers and employees will stand together with a united court culture, where all are able to achieve their very best to serve the needs of the Court and the community.

- Can you identify how these mission statements are consistent with procedural fairness and public perceptions of fairness?

Sample answer: *The first mission statement names “public confidence” as a priority, which is closely tied to public trust and perceptions of fairness. The third and fourth mission statements name fairness as a priority, which includes fairness from the perspectives of court users, also known as procedural fairness. Note how the second mission statement does not name fairness or public trust as a priority.*

- Are there any common themes among these mission and vision statements? What might be the significance of such themes?

Sample answer: *Many include themes of fairness and/or justice. Efficiency is another theme in more than one statement, but note that efficiency is a distinct goal and can be inconsistent with fair treatment if court users feel rushed, disrespected, or like they didn’t have a chance to be heard.*

Additional Notes/ Questions:

4) Review: Court mission/vision statement [1.9]

[15 minutes]

- If the court has a mission statement, vision statement, or a statement of values:

- How often do you consider how your work helps fulfill the court's mission?

Sample answer: *Our court's mission is posted in the lobby but I don't think to look at it much anymore. I think the pressure to keep cases moving sometimes distracts from our true mission and purposes.*

- How do you currently prioritize this mission in your role? How might other staff within the court prioritize this mission?

Sample answer: *I include our mission statement in my email signature, as well as open our quarterly strategic planning meetings by reading it aloud.*

- How might the public be aware of the mission? Reflect upon how/where it is visible now.

Sample answer: *The mission statement is posted in the courthouse lobby but I'm not sure many people notice it. I think it's also on the website.*

- How often do you accomplish the goals/themes of our mission statement? How do we know if we're successful in achieving our mission?

Sample answer: *I strive to be fair and just every day in my role. But to be honest, I don't have a method or set of measures to know whether I'm truly achieving that beyond my own assessment of it.*

- What role does fairness play in your court's mission? Are perceptions of fairness included? Are there any purposes or values that are at odds with fairness or procedural fairness?

Sample answer: *Fairness is included but our mission is silent on perceptions of fairness and public trust. Our mission also names efficiency, which I worry sometimes comes at the cost of treating each individual like a person, not just a file.*

- Are there other values we hold that aren't reflected here? How might the public observe those values?

Sample answer: *Equity is not included in our mission statement. Personally, I believe the court should strive to treat all court users equally, regardless of income, race, ethnicity, gender, etc., but it looks like that isn't specifically named in our public mission. The public observes our values in every interaction they have with the court, whether in person with a staff member, on the phone, on our website, or in the courtroom.*

- If the participants' court(s) does not have a mission statement, vision statement, or a statement of values:

- Are there other statements or pledges the court has made to assert its values?

Sample answer: *Our city has a motto, but that doesn't capture unique priorities of our court. We also have signs saying 'In God We Trust' on the courtroom walls, but now that I think about it, that feels pretty incomplete in describing what we're striving for.*

- If you were to create a values statement designed to speak to the public's skepticism or concerns about the court, what values do you think should be included and why? How might it incorporate fairness and perceptions of fairness?

Sample answer: *I like the example naming Fairness, Transparency, and Excellence. On the contrary, I don't think 'Commitment' is easy to understand in this context; instead, I might recommend 'Dedicated' or 'Public Service.'*

- How might we better clarify and document the court's mission or values to the public?

Sample answer: *I've never thought about why we don't have a mission or values statement. I'm going to talk with the chief judge and court administrator about that. Perhaps we could draft some options at our annual strategic planning meeting and brainstorm good locations in the courthouse or online to promote that message.*

Additional Notes/ Questions:



ACTION ITEM(S)

[5 minutes]

Recommend that participants review and complete these role-specific action items before the group meets again.

1. All participants: Complete Lesson 2 of the online course.
2. JUDGES:
 - Consider at least two judicial practices that might be fair *in fact* but might not *appear* to be fair or just.
 - Review the three judicial scenarios at www.proceduralfairnessguide.org.
3. COURT STAFF:
 - Consider at least two ways non-judicial practices might be fair *in fact* but might not *appear* to be fair or just.
 - Review the court staff scenario, “The Counter Clerk and the Upset Litigant,” at www.proceduralfairnessguide.org.

Other action items (assigned by facilitator or suggested by participants):

Key Takeaways & Resources:

- Procedural fairness in courts concerns how fair the public perceives the courts and court processes to be.
- Court professionals can improve those perceptions by what they can do in their day-to-day work.
- Perceptions of fairness are based primarily on fair treatment, not on outcome fairness.
- This is a research-based concept informed by surveys and interviews with court users.
- Fairness and perceptions of fairness are core to the purposes & responsibilities of courts.
- Resource: [The Purposes & Responsibilities of Courts](#), Ernest Friesen video (19 minutes)
- Resource: [Purposes of Courts Reformulated](#)
- Resource: [American Judges Association Fairness Interviews](#) with nine national leaders in Procedural Fairness
- Resource: [“How Judges Can Show Respect”](#): Hon. Victoria Pratt’s TED Talk. This is an excellent introduction to the topic from a judge’s point of view
- Resource: [What is Procedural Justice?](#), Center for Court Innovation, 2017

Facilitator Guide Only

Parking Lot (Questions/Ideas for Future Consideration)



LESSON 2: Fairness

Lesson Learning Objectives:

As a result of completing this lesson, participants will be able to::

- Define fairness and how it is connected to procedural fairness
- Identify the key elements of procedural fairness
- Describe the benefits of procedural fairness

Facilitator Notes/Questions:

Facilitator prep: Review the videos in the [Procedural Fairness Guide](#) and its accompanying facilitator guide. The website includes three scenarios for judges and one for non-judicial staff. Participants should have watched the video(s) on their own before the discussion, but come prepared to show the videos to all participants before initiating the discussion about them.

1) Review and discuss: Lesson 2 “Activity” questions

[10 minutes]

- Match each element of procedural fairness to the appropriate description and discuss any points of confusion.

ANSWER KEY

VOICE	Refers to an individual’s ability to participate in the case by expressing their own viewpoints
NEUTRALITY	Refers to an individual’s perception that decisions are made in an unbiased, transparent way
TRUST	Refers to the sense that decision-makers are trustworthy and sincere and are trying to do the right thing
RESPECT	Refers to an individual feeling they are being treated with courtesy and respect. This includes showing respect for their rights.

Additional Notes/ Questions:



Topics for Consideration/Discussion:

What is Fairness?

- How would you articulate the distinctions between “fairness” and “procedural fairness”? Consider how prior training and priorities may have focused on other types of fairness more than – or at the exclusion of – procedural fairness.

Key Elements of Procedural Fairness

- How would you describe each element of procedural fairness in your own words? Note that the key is in framing these elements from the court user's perspective.

Demographics

- Are you surprised that race, ethnicity, and other demographic factors are likely to influence individual's levels of trust and confidence in the court?

- Are you surprised that those same factors do not influence individuals' definition of fairness or its elements?

- How might those facts influence how this concept is put to work in your court?

Benefits of Procedural Fairness

- Which of the research-based benefits of procedural fairness were most compelling to you? Which were difficult to believe, and why do you think you are skeptical?

2) Explore current procedural fairness practices

[15 minutes]

* **Facilitator note:** Listen for examples that are not necessarily observable and therefore are not examples of procedural fairness, such as "considering all of the facts before making a decision" and "making language interpreters available to promote neutrality and respect for litigants with Limited English Proficiency." Each example should include an observable component so that the public see it being done.

Judge-specific discussion questions:

- What are examples of each element that you or other judges already practice?

Sample answers: *Addressing all litigants by name, versus “the defendant” (to show respect); Pausing for court users to ask questions before I make a decision (to give voice and promote understanding)*

- Which element do you think is most challenging for you to implement and why?

Sample answer: *I have a busy docket, so I find it challenging to give voice to each court user when I know it might slow me down. Some people love to talk and I don’t know how to effectively reroute them once they derail the proceeding.*

Staff-specific discussion questions:

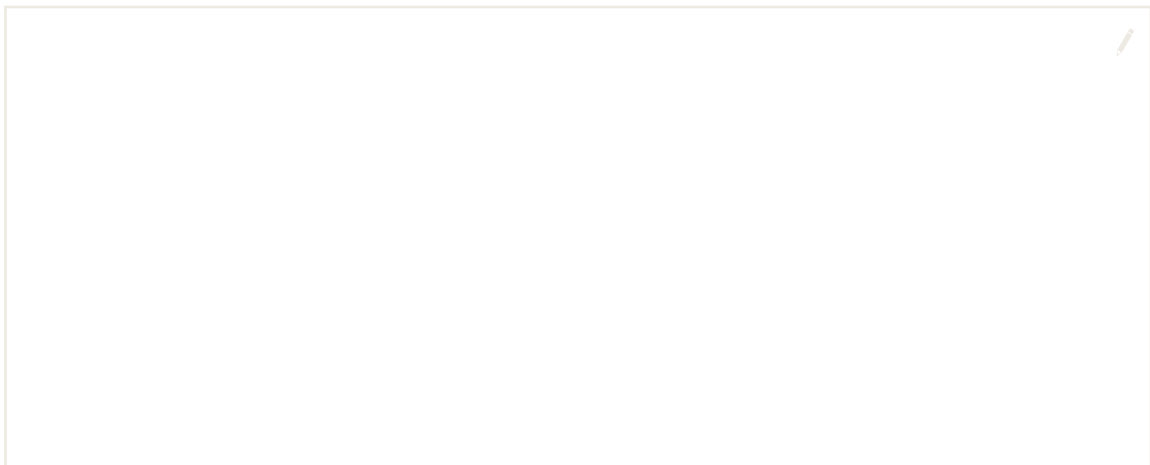
- What are examples of each element that you or other court staff already practice?

Sample answers: *Making eye contact with court users versus looking at my computer screen (to show respect); Referring court users to available information or on-site services (to convey trustworthiness)*

- Which element do you think is most challenging for you to implement and why?

Sample answer: *I’m not sure how to demonstrate ‘neutral’ decision-making. I’m aware that we all have some biases, and even though I work to be unbiased, I’m not sure how any of that comes across to court users.*

Additional Notes/ Questions:



3) Review Procedural Fairness Guide video scenarios.

[20 minutes]

Judge-specific questions:

- Choose one or more videos to watch as a group (time permitting), then discuss:



The Multitasking Judge (5:18):
A judge conducting a hearing on whether to modify the no-contact order in a domestic-violence case pending trial also signs a stack of routine orders during the hearing.



The Computerized Judge (9:15):
A judge hearing a proceeding to terminate a mother's parental rights sits in a modern courtroom, where he accesses the court file on one computer, the court calendar on an iPad, and texts about emergency warrant requests on an iPhone. This leads to a motion for mistrial based on the judge's inattention.



The Criminal First-Appearance Docket (3:04):
A judge must process more than 100 defendants making their first court appearances in criminal cases.

- What strategies do you use to balance the need for multitasking with the need to demonstrate active listening?

Sample answer: *I try to warn court users that I'll be taking notes on my computer, but that doesn't mean I'm not listening. I repeat back what I heard to show that I was listening. That also serves as a check on my understanding of what they said.*

- How might procedural fairness practices help to improve your practices for routine matters that have become rote for you?

Sample answer: *I can imagine that it seems uncaring and uninterested when I rattle off a list of rights or procedures. This is a good reminder to add eye contact, voice inflections, and personalized language so court users know this is specific to them.*

- How might procedural fairness practices offer efficiencies when handling large dockets? What new practices might be worth the added time because they avoid conflict or questions down the road?

Sample answer: *I suppose if I were to ask each court user to repeat their understanding of their obligations, I'd probably be able to catch some misunderstandings that would have otherwise resulted in non-compliance or other issues down the road.*

Staff-specific discussion questions:

- Watch the staff-specific video, then discuss:



The Counter Clerk and the Upset Litigant (2:42):

A mother who has just received a court order taking away her children comes to the Clerk's front counter for information. The Clerk may—or may not—be able to help.

- What strategies do you use to maintain respectful treatment and procedural fairness when working with upset court users?

Sample answer: *I notice that I am much more patient if I schedule a very brief break mid-morning and mid-afternoon to focus on my big-picture goals as a public servant. It helps ensure that the last court user of the day gets the same respectful treatment as the first court user of the day.*

- How might procedural fairness practices help to improve interactions with upset court users?

Sample answer: *I try to repeat back what frustrated court users are saying, even if I don't agree with it, such as 'I hear you: it feels unfair that you have to pay a fine for this offense.' Sometimes that helps to calm them down faster. I also made a handout that outlines different payment options so it's clear what their choices are.*

Follow-up on Lesson 1 Action Items

[10 minutes]

- **JUDGES:** Discuss judges' answers regarding judicial practices that might be fair *in fact* but might not *appear* to be fair or just.

Sample answers: *Making a ruling or decision without explaining my reasoning or criteria; Rushing through my docket out of respect for everyone's time but without letting each court user feel fully heard.*

- **COURT STAFF:** Discuss staff answers regarding non-judicial practices that might be fair *in fact* but might not *appear* to be fair or just.

Sample answers: *Telling a court user you aren't authorized to answer questions seeking legal advice, but failing to explain why or offer an alternative; Referring someone to an external agency that, unbeknownst to the staff member, no longer provides the desired services or information.*



ACTION ITEM(S):

[5 minutes]

Recommend that participants review and complete these action items before the group meets again.

1. Complete Lesson 3 of the online course.
2. Messaging the court's mission: Consider one new practice you could implement in your role to better assert to the public your commitment to the court's mission of fairness. This might include posting the court's mission in a highly visible area, adding the mission to your email signature, or verbally including the mission in certain interactions. Consider what approval might be needed before doing so.

Other action items (assigned by facilitator or suggested by participants):

Key Takeaways & Resources:

- Fairness is in the eye of the beholder. Fairness isn't limited to the procedures followed or the outcome at the end, but it is also about how court users experience that process.
- Perhaps counterintuitively, people care most about: "Was I treated fairly during the process?"
- Elements of procedural fairness include: Voice, Neutrality, Respect, and Trust.
- When procedural fairness elements are perceived or experienced, people are more likely to feel treated fairly and comply with what is being asked of them. Workers also experience higher job satisfaction and engagement.
- Procedural fairness principles hold true independent of demographics, but racial and ethnic minorities report lower levels of trust and confidence.
- Resource: www.proceduralfairnessguide.org
- Resource: [The Ultimatum Game](#)
- Resource: [Two Monkeys Were Paid Unequally](#)
- Resource: ["Obstacle Courts"](#)

Facilitator Guide Only

Parking Lot (Questions/Ideas for Future Consideration)



LESSON 3: Report Card

Lesson Learning Objectives:

As a result of completing this lesson, participants will be able to::

- Describe the nature and importance of national and local public perceptions of the court

Facilitator Notes/Questions:

Facilitator prep:

1. Ask court leadership if local public opinion polling data or other community or litigant feedback data is available, including information about any failed or stalled efforts to collect feedback. In addition to formal feedback efforts, search your court's name in Yelp, Google or on social media such as Facebook to find additional feedback that community members may have shared online about the court. Provide summaries of available feedback for learners to review within this lesson.

2. Review [CourTools Measure 1 - Access and Fairness](#) and [Measuring Perceptions of Fairness: An Evaluation Toolkit](#) to prepare for the discussion below.

1) Review and discuss: Lesson 3 "Activity" questions

[10 minutes]

- QUESTION 1: True or False (Check One): The national average for public approval of the course is at or above 80 percent.

ANSWER: FALSE: National public opinion polls show only about 70 percent of people have some or a lot of confidence in the courts.

- QUESTION 2: (Check One) Studies indicate that respect can be demonstrated to members of the public by:
 - a) Staff making eye contact with them
 - b) Staff smiling
 - c) All of the above

ANSWER: All of the above: Court users' experiences can enhance their feelings of being respected or contribute to their feelings of being disrespected. The two actions listed above lead to feelings of being respected, while long wait times and stigmatizing labels ("defendant"; "frequent flyer") can contribute to feelings of disrespect.

- QUESTION 3: (Check One) Procedural fairness helps us improve the courts and achieve our purpose by seeing our work through the perspective of the:
 - a) Judge
 - b) Court personnel generally
 - c) Court users and members of the public

ANSWER: Court users and members of the public. Procedural fairness provides a framework to define fairness from the court user perspective and helps us see the court experience through their eyes.

Additional Notes/ Questions



Topics for Consideration/Discussion

Perception is Reality

- What do your instincts tell you about how the public would rate their trust and confidence in your court? Do you think the general public would have a different rating than recent court users? Might the answer differ if you asked your colleagues what rating they felt they deserved?

National Perception

- Click [here](#) to review the 2019 State of the State Courts survey results, conducted by the National Center for State Courts. This resource is also included in the Resource Guide in the Appendix. Go to <https://ncsc.org/survey> to see several years of survey results. How do your estimates from the previous questions align with these national averages? What are two or three interesting statistics that you'd be interested in knowing about your local court?

2) Review and consider local public opinion ratings

[15 minutes]

- If public opinion or litigant feedback data is available about our court or other local courts:
 - How does local feedback compare to national averages? Why do you think local feedback is better/worse than the national averages?

Sample answer: *Local feedback might be influenced positively by the court's successful efforts to engage with the community or may be influenced negatively by conversations about*

perceived injustices or needed reforms or something more simple like it being difficult to reach court staff by phone or email.

- What does local feedback suggest regarding needed improvements?

Sample answers: High approval ratings don't necessarily mean we have no room for improvement. We should be asking ourselves: how can we improve the experiences of the percentage of court users or community members who feel that we're falling short on our responsibilities?

Low approval ratings can feel discouraging but should be seen as guidance for how we can better fulfill our mission and purposes. How might we help court users to better understand the process and see what we do as fair and just?

- How was existing public opinion or court user feedback collected? How can we support those efforts to ensure they are useful to us and sustainable over time?

Sample answer: I'm not sure we cite that feedback very often when budget season rolls around. Perhaps we could show the value of the data by including it in more meetings with local government and the community at large. We might also come up with a question or two to add that would be of interest the next time feedback is collected.

- If public opinion or litigant feedback data about our court or other local courts is not available:

- What do you think our court's approval or trust rating would be? How does it compare to the national average and why?

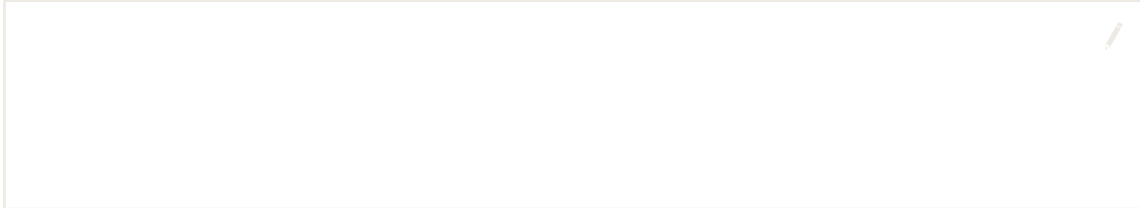
Sample answer: I think public opinion about the court would be influenced by the heat that our local law enforcement has taken in recent months. I wonder how we might better assert our independence and distinct priorities from those functions without disrespecting them and the important role they play in the system.

- Is it anyone's job in our court to collect or review feedback regularly and use it to inform needed improvements? How might we support efforts to start collecting public opinion or court user feedback.

Sample answer: We used to provide comment cards in the lobby, but to be honest, I don't think anyone restocked the supply or even read the responses that were submitted. I will ask about why we discontinued that effort. I think we could come up with a few questions that are most ripe for feedback and might help make a renewed effort feel less daunting.

- Consider which methods have been tried to collect and review court user feedback. (Additional methods will be explored in the next subsection)

Additional Notes/ Questions



3) Review two sets of evaluation tools: [CourTools Measure 1 - Access and Fairness](#) and [Measuring Perceptions of Fairness: An Evaluation Toolkit](#) [20 minutes]

Judge-specific discussion questions:

- Which of the feedback questions or formats outlined in these tools would provide valuable information for judges?

Sample answer: I don't have much opportunity to see other judges on the bench, so I would be curious to know how my fellow judges would rate the court within the Self Assessment of the Evaluation Toolkit. Perhaps having an open dialogue about each of our strengths might reveal some opportunities we could individually or collectively make improvements.

- How might having this feedback improve your practice?

Sample answer: I would love to know how court users rated their experience and my handling of their case (for example, via a defendant interview or survey), especially as I'm trying out new practices. It would be helpful to know which of my new efforts are having the desired effect on people's perceptions of fairness. Otherwise, I get very little feedback about my work, other than formal complaints or legal appeals.

- What would be needed to implement one or more of these feedback types?

Sample answer: We have college and law student volunteers every summer. I wonder if they could be trained to conduct court observations and report back. I'm sure we would all learn a lot.

Staff-specific discussion questions:

- Which of the feedback questions or formats outlined in these tools would provide valuable information for nonjudicial staff?

Sample answer: I would be interested to have court users complete a survey like the CourTools Access and Fairness survey. We could compare their responses based on what service they accessed at the court: for example, getting helped with a matter online or by phone versus appearing before a judge in court.

- How might the answer vary by role?

Sample answer: As a cashier, I'd be most interested in feedback about our counter service and how we might improve. That being said, if court observations revealed that certain information is or is not being provided at that stage, that would help us better prepare for the questions and concerns court users have by the time they reach us.

- How might having this feedback improve your practice?

Sample answer: I work hard to provide excellent service to all court users. Having feedback or observations that document that might help me track my own performance, but also demonstrate my efforts to my supervisors. I'd advocate that promotions and other forms of staff recognition could be tied to some of these new measures.

- What would be needed to implement one or more of these feedback types?

Sample answer: I've seen simple surveys distributed via email or a web link. We could include an invitation for feedback in all external emails assisting court users with general inquiries or as a follow-up to a court proceeding.

Additional Notes/ Questions

4) Follow-up: Lesson 2 Action Items

[10 minutes]

- Who can identify a new practice that could be implemented to better exhibit the court's commitment to fairness and procedural fairness?

* **FACILITATOR NOTE:** There are no right answers to this question so facilitation should focus on encouraging new and enhanced practices generally and inviting the group to build upon any suggested practices.



ACTION ITEM(S):

[5 minutes]

Recommend that participants review and complete these action items before the group meets again.

1. Complete Lesson 4 of the online course.
2. Read the article "[What do defendants really think?](#)"

Other action items (assigned by facilitator or suggested by participants):

Key Takeaways & Resources:

- Perception is reality.
- Between 50-70% of individuals polled in a national survey think state courts are fair, including in terms of each element of procedural fairness. For example, 60% think state courts treat people with dignity and respect. 50% think state courts listen carefully to what people appearing before them. 50% think state courts are unbiased.
- Polls suggest opportunities for all courts to make improvements.
- Resource: [CourTools Measure 1 - Access and Fairness](#)
- Resource: [Measuring Perceptions of Fairness: An Evaluation Toolkit](#)
- Resource: [2019 State of the State Courts survey results](#)
- Resource: [State of the State Courts complete survey data 2014-2020](#)

Facilitator Guide Only

Parking Lot (Questions/Ideas for Future Consideration)



LESSON 4: What Does Procedural Fairness Look Like?

Lesson Learning Objective:

As a result of completing this lesson, participants will be able to::

- Identify practices and behaviors that judicial officers and court personnel can implement to promote procedural fairness

Facilitator Notes/Questions:

Facilitator prep: Read [What do defendants really think?](#) and highlight any aspects that might be particularly relevant or noteworthy for your court or jurisdiction.



Topics for Consideration/Discussion

What does procedural fairness look like?

- Based on your understanding of procedural fairness so far, what are a few tangible practices you or your colleagues already use to promote perceptions of fairness?

1) Discuss: Court appearance scenarios:

First visit to court and the initial court appearance

[15 minutes]

- What aspects from the first two scenarios are similar to how court users experience your court? What is different?

* **FACILITATOR NOTE:** Answers to this question are inherently local. Encourage participants to consider each touchpoint of the scenario presented and how the experience from a court user's perspective might share some of the challenges presented in the scenarios. Be prepared to push participants if their initial reaction is that their court process is wholly distinct from the scenarios.

- What are the first touchpoints with your court? What unintended, negative first impressions may the court be making before court users even set foot in the courtroom?

Possible answer: *We have a small, poorly lit lobby that makes lining up and navigation challenging and our security officers are not particularly courteous. I'm sure those aspects influence court users' perceptions of the court, even though those experiences are completely beyond our control.*

Judge-specific discussion questions:

- As a judge, what experiences or knowledge would you like court users to have before they get to the courtroom to facilitate a smoother interaction? How might the court better provide that for court users?

Sample answers: *I wish court users knew how to connect with their attorney. Sometimes we identify folks who have been sitting around waiting for their case but we never signed them in because their lawyer wasn't here. Maybe we could make a morning announcement to all court users about that.*

I wish court users better understand the purposes of different court appearances. For example, if I'm proceeding over a status hearing, some court users expect to share all kinds of other information about the case then. I could try giving a brief overview of the purpose of the court appearance at the beginning of each and tell court users when and how they will have a chance to be heard.

- As a judge, what are the challenges of courtroom communication in our court? What are common areas of confusion, disrespect, or other dimensions of procedural fairness that court users might experience in the courtroom?

Sample answer: *We call cases with private counsel first. I'm sure that's confusing if not disrespectful to individuals who have a public defender or are pro se. The speakers don't work well in our court so audience members can't really listen to what's being said while they wait for their case to be called. Meanwhile we expect them to sit there with nothing to do. I can see how that feels disrespectful and misses an opportunity for court users to learn a little bit about the process by watching and listening.*

Staff-specific discussion questions:

- In your specific role, what experiences or knowledge would it be helpful for court users to have before they communicate with you? How might the court better provide that for court users?

Sample answer: *I wish court users knew they can't pay for fines and fees with a credit card. I have to have that conversation so many times a day and it's frustrating for me and the court user. We should post a more clear notice in our lobby and on our website, and add it to all relevant tickets and notices. That might help.*

I get asked to provide legal advice all the time but am not allowed to provide it. It might help to have a clear list – posted or as a handout – of topics I can and can't discuss. The list could include a phone number or website to the local bar association if they decide to consult a lawyer.

- What are the communication challenges in our court? Both inside and outside of the courtroom, what are common areas of confusion, disrespect, or other related dimensions of procedural fairness that court users might experience?

Sample answer: *I've noticed that lots of people think the clerk's office is the place to sign up for community service. We need better signs and announcements so court users don't waste their time and patience looking for how to comply with something the court has asked of them.*

Additional Notes/ Questions

2) Discuss: Organizational procedural fairness in our court [10 minutes]

- In the scenario, how could court leadership have helped staff to feel heard? Did you observe other elements of procedural fairness – or lack of – in this scenario?
 - * **FACILITATOR NOTE:** Answers to these questions are inherently local. Consider walking through each element of procedural fairness to explore how it may be present (or not) in how court leaders interact with staff. Listen for and encourage ideas as to how the court could better enhance each of those elements.
- How are the elements of procedural fairness present in how staff members interact with one another, particularly from supervisors (i.e., organizational procedural fairness)? What are our aspirations for what it could look like?

Judge-specific discussion questions:

- How do judges in our court implement or support organizational procedural fairness?

Sample answer: *I have some specific ways I like to run my court, so I do my best to explain to staff and other court stakeholders the reasons behind those rules and procedures.*

- What unique opportunities do judges have to help improve these efforts?

Sample answer: *As judges, we have the opportunity to model procedural fairness practices in how we communicate with staff and other professionals. If we treat other professionals with respect, give them voice, etc., we are showing them our expectations for how to speak with court users.*

Staff-specific discussion questions:

- How do non-judicial staff in our court implement or support organizational procedural fairness?

Sample answer: *Our court administrator does a good job of soliciting staff input before major changes are made. Even if it doesn't impact the ultimate decision, it still feels good to have a voice in that process.*

- What unique opportunities do you have to help improve these efforts?

Sample answer: *As a supervisor, I can work to model respectful language towards court users and staff alike. I can also be more transparent about how I make decisions and invite feedback from staff so they feel like they have a voice.*

3) Review and discuss: “Applying Procedural Fairness Locally” [15 minutes]

- Discuss: Which of the suggested practices might our court benefit from? Where have our past efforts to enhance these practices fallen short or might benefit from a procedural fairness approach? For each of the suggested practices below, participants can check “Yes” or “No” and make notes about how they could implement the practice or add to their current practices.

Suggested practices:

- Conducting interviews/surveys (CourTools Measure 1 or others) – *skip if discussed thoroughly in prior lesson*
- Helping court users navigate the building and check-in at the right place (e.g., procedures, signage, courtroom announcements)
- Improving communication with court users during court appearances

* **FACILITATOR NOTE:** Answers to these questions are inherently local, as well. Help participants to identify smaller or short-term enhancements to the suggested practices, which may include a simple courtroom announcement or hanging a welcome sign with simple instructions in the lobby. Once that conversation is underway, you can encourage participants to brainstorm about longer-term solutions that may require more planning or effort but are still worthwhile to consider.

Judge-specific discussion questions:

- What unique opportunities do judges have to help improve these efforts?

Sample answer: *Judges have a lot of control over what is said and done in our courtrooms. We should use that authority and autonomy to try out our own announcements for court users and staff alike. We should then find time to share promising practices with our peers who can build upon our initial efforts.*

- Is there one new practice you can commit to trying before we meet again?

*** FACILITATOR NOTE:** Write down each participant’s response so that you can follow-up specifically during the next session. Assess and confirm out loud that each suggested practice enhances at least one element of procedural fairness.

Staff-specific discussion questions:

- What unique opportunities do non-judicial staff have to help improve these efforts?

Sample answer: Answering the phones, I am the face – well, voice – of the court all day long. I can help prime court users for the experience they have when they get here. Even though it’s not my job to help them navigate the court, once I’ve already pulled the information on their case, I can give them a heads up that they should arrive by 8:00am to avoid a long security line, then proceed to the second floor to access Court B.

- Is there one new practice you can commit to trying before we meet again?

*** FACILITATOR NOTE:** Write down each participant’s response so that you can follow-up specifically during the next session. Assess and confirm out loud that each suggested practice enhances at least one element of procedural fairness.

4) Follow-up: Lesson 3 Action Items

[15 minutes]

- Discuss: “What do defendants really think?”
 - Which quotations from the report were most impactful to you?
 - Which quotations could have plausibly come from participants of our local legal system? Are there professionals in our court who use words like *“irresponsible,” “menace to society,”* or other disrespectful terms when referring to court users? How might we replace those labels with more respectful language?

*** FACILITATOR NOTE:** There are no right answers to these questions so facilitation should focus on giving voice to all participants. There are many sensitive topics included within, so plan for how participants might continue the conversation beyond the time allowed in this group. For information about discussing topics like this in a larger group, consult the resource [Talking About Fairness](#) (Center for Court Innovation 2018), a practitioner guide on convening dialogues about system fairness.



ACTION ITEM(S):

[5 minutes]

Recommend that participants review and complete these action items before the group meets again.

1. Complete Lesson 5 of the online course.
2. Read: "[Building Public Trust and Confidence Through Model Court Websites](#)"
3. Read: "[Procedural Fairness: A Bench Card for Trial Judges](#)"

Other action items (assigned by facilitator or suggested by participants):

Key Takeaways & Resources:

- Procedural fairness can take many different forms.
- Procedural fairness strategies may be role-specific.
- Procedural fairness practices and policies should build upon your local strengths.
- Procedural fairness practices and policies can also support how courts interact with their staff.
- Resource: [What do defendants really think?](#)
- [Talking About Fairness](#), Center for Court Innovation 2018. This resource is a practitioner guide on convening community dialogues about system fairness.

Facilitator Guide Only

Parking Lot (Questions/Ideas for Future Consideration)



LESSON 5: Myths

Lesson Learning Objective:

As a result of completing this lesson, participants will be able to:

- Describe the common myths, misconceptions, and other obstacles concerning procedural fairness

Facilitator Notes/Questions:

Facilitator prep:

1. Review and have available for your reference [Building Public Trust and Confidence Through Model Court Websites](#) and come prepared to discuss specific features and strategies explored within that may be relevant to your court.
2. Review the website for the court(s) represented by your participants and consider aspects or specific pages that will be ripe for discussion. Have the website available to view online, or print out select pages in advance.
3. Review and have available for your reference [Procedural Fairness: A Bench Card for Trial Judges](#).

1) Review and Reflect: Lesson 5 “Activity” questions

[5 minutes]

- QUESTION 1: True or False (Check One): Procedural Fairness makes sense in theory, but the volume of cases makes implementation nearly impossible.

ANSWER: FALSE. By focusing on procedural fairness, you can avoid conflict, improve cooperation, and save time in the long run.

- QUESTION 2: True or False (Check One): Being “nice” is an integral part of procedural fairness. If we are “nice” the public will have a good perception.

ANSWER: FALSE. Being nice is not an element of procedural fairness. It doesn’t hurt, but it is not part of the procedural fairness formula.



Topics for Consideration/Discussion

The ten most common myths/misconceptions:

- MYTH #10: Procedural fairness conflicts with the statutory requirements, rules of procedures, or local rules.
- MYTH #9: We should focus our improvement efforts on fairness and justice, not just the ‘perceptions’ of fairness and justice.
- MYTH #8: Our court staff won’t buy into this. We’ll never get everyone to participate in these types of changes. In fact, our court leadership doesn’t practice these things among the staff. Why would they with court users?
- MYTH #7: I’m only one person. My actions can’t make a difference.
- MYTH #6: Procedural fairness makes sense in theory, but our volume makes implementation impossible.
- MYTH #5: Procedural fairness won’t work at my court. We’re unique.
- MYTH #4: Implementing procedural fairness is too costly.
- MYTH #3: Practicing procedural fairness is just one more thing to do by staff who are already overwhelmed and stretched too thin.
- MYTH #2: Our court users aren’t complaining, so we must be doing a good job. It’s impossible to make all court users happy anyway. Why bother?
- MYTH #1: Procedural fairness is just about being ‘nice.’ The primary role of the courts is to hold people accountable.

2) Discuss: Which myth(s) did you find most difficult to accept as untrue? [15 minutes]

* **FACILITATOR NOTE:** Answers to this question are inherently individualized. The course attempts to walk through the reasons why each myth is untrue and can be referenced directly as needed. Also anticipate that some myths may not be dispelled for all participants. The goal then is to give voice to participants’ concerns about the underlying truths or issues within each myth.

Additional Notes/ Questions

3) Follow-up: Lesson 4 Action Items [35 minutes]

- What new procedural fairness practices did you test since the last time we talked?
* **FACILITATOR NOTE:** Refer back to the practices participants shared in the prior discussion. Expect that some participants will admit that they weren’t able to do so. Invite explanation, which might reveal barriers that can be avoided when trying again next time. For those who were able to test new practices, ask what they noticed about the impact on themselves and/or court users.

- Discuss: “[Building Public Trust and Confidence Through Model Court Websites](#)”
 - How are fairness and procedural fairness demonstrated on our court’s website? Are any of the elements of procedural fairness visible on the website?

Sample answer: *Our mission statement is on the homepage, along with a plain language list of court rules.*

- What are two website features discussed in the toolkit you think our court’s website might benefit from?

Sample answer: *I never considered having quotes or pictures of the judge or court staff on the webpage. I can see how that makes the process feel more human and may help to build trust with the public. I also think focusing on court users’ rights could help avoid the misperception that courts are a collection agency for fines and fees. While we want to make it convenient for court users to pay their fine, if that’s the path they choose, we don’t want to bypass the step of presuming their legal innocence first.*

- What steps are needed to explore making those changes?

Sample answer: *I can ask our information technology staff how difficult it would be to add a photo next to the judge’s and court administrator’s names. I can also draft some language for court leadership to review asserting the presumption of innocence and where we might post that statement alongside payment options.*

Judge-specific discussion questions:

- What website edits would better convey local judges’ commitments to each element of procedural fairness?

Sample answer: *Each of our judges has slightly different rules and procedures. We could better standardize the information and rules relevant to all of us and note where there may be variation.*

- Is there a question or concern that comes up frequently in your work as a judge that might be better addressed on the website?

Sample answer: *I often explain the difference between a guilty plea and a ‘no contest’ plea, but I think the distinction is lost on some people. I think defining those terms on the website – and maybe some other key terms, like disposition – would help support or replace the oral explanations we give in court.*

Staff-specific discussion questions:

- What website edits would better convey local court staff's commitments to each element of procedural fairness?

Sample answer: *It's really hard to get through on our phone lines so we'd really prefer it if court users with email access to email us instead. We could be more clear about that on our website.*

- Is there a question or concern that comes up frequently in your work that might be addressed better on the website?

Sample answer: *Court users have a lot of trouble finding specific forms on our website. Perhaps we could list the top ten most requested forms at the top, which would help a majority of court users without requiring a redesign of the whole online forms library.*

- Discuss: "[Procedural Fairness: A Bench Card for Trial Judges](#)"

Judge-specific discussion questions:

- Which practices in the bench card do you think are your strong suits? Which practices suggest opportunities for improvement? Which practices can you commit to focusing on and enhancing in the coming weeks?

*** FACILITATOR NOTE:** Answers to these questions are inherently individualized. If participants are struggling to identify opportunities for growth, explore ways they can build upon one of their identified strengths by going through each element of procedural fairness.

- How can judges support one another in implementing the practices outlined in the bench card?

Sample answer: *I can commit to spending a few minutes each week sitting in another judge's court and looking for ways she might do things differently. If she's amenable, we could swap notes or recommendations on how to make further enhancements.*

Staff-specific discussion questions:

- Do any of the bench card practices map directly onto your role(s)? What adaptations might be needed?

Sample answer: *I often feel rushed so the suggested language about addressing timing concerns felt relevant to me. As a counter clerk, I think it could adapt it as "I apologize if I seem rushed. My office is quite busy today. But your needs are important to me, and I'll do my best to help you to the best of my abilities."*

- How might non-judicial staff support local judges in implementing the practices outlined in the bench card?

Sample answer: *Some of the courtroom announcements suggested on the bench card could be made by non-judicial staff. I could offer to help with relevant announcements on days when I'm staffed in the courtroom and encourage my colleagues to do the same.*



ACTION ITEM(S):

[5 minutes]

Recommend that participants review and complete these action items before the group meets again.

1. Complete Lesson 6 of the online course.
2. Download and begin reading [To Be Fair: Interviews About Fairness](#) (Center for Court Innovation 2017). This book contains practitioner interviews about procedural fairness from a range of perspectives, from judges to court administrators to lawyers.
3. Consider identifying a peer familiar with procedural fairness or who has taken this course who would agree to discuss the topic with you periodically to help one another troubleshoot challenges as they arise.

Other action items (assigned by facilitator or suggested by participants):

Key Takeaways and Resources:

- See the 10 myths listed above.
- Resource: [Building Public Trust and Confidence Through Model Court Websites](#)
- Resource: [Procedural Fairness: A Bench Card for Trial Judges](#)

Facilitator Guide Only

Parking Lot (Questions/Ideas for Future Consideration)



LESSON 6: Sustaining Improved Practices

Lesson Learning Objectives:

As a result of completing this lesson, participants will be able to::

- Describe how to “protect our hope” (stay optimistic despite ongoing challenges)
- Define internal procedural fairness
- Identify the importance of a team approach
- Identify the links and resources you may use to gain access to additional information

Facilitator Notes/Questions:

Facilitator prep:

1. Download and have available for your reference [To Be Fair](#) to facilitate the discussion below about any interviews flagged by learners.
2. Review in advance the latest content and structure of www.proceduralfairness.org. Come prepared to orient learners to the website, which they can use as an ongoing resource going forward.

1) Review and Reflect: Lesson 6 “Activity” question [5 minutes]

- QUESTION: (Fill in the blank): Your organization should examine to ensure you are practicing procedural fairness internally. (Options: Hiring practices; Promotions; Personnel policies; or All of the above)

ANSWER: Ensuring procedural fairness occurs with hiring practices and promotions promotes a better internal environment. Providing staff with a voice during policy and procedure development is another way to encourage procedural fairness.



Topics for Consideration/Discussion

Protecting our hope

- What are some strategies you use (or aspire to use) to stay positive and committed to your work? What’s one additional strategy you can commit to trying in the short-term?

2) Consider the connection of procedural fairness to personnel policies [5 minutes]

- How might we review and improve our hiring and promotion practices and personnel policies from a procedural fairness perspective?

Sample answer: *We could look at our job descriptions and interview questions to consider how we prioritize procedural fairness skills and concepts. We should set expectations from the beginning that court staff should practice respect, voice, neutrality, and trustworthiness.*

- What other roles can supervisors play in advancing this topic?

Sample answer: We could plan for teaching moments when we observe staff reverting to old habits or practices that are inconsistent with procedural fairness. Having a plan when addressing inappropriate practices increases the likelihood that we hit the right notes and are well-received. That plan can model the elements of procedural fairness, like voice and neutrality.

3) Addressing internal pushback [3 minutes]

- What might you say or do if you observe a colleague struggling to implement procedural fairness, for example, if your colleague is communicating with a dissatisfied court user at the counter and is becoming impatient?

Sample answer: I sometimes worry that interjecting in those instances would be disrespectful to my colleague, but perhaps our team can strategize in advance some tactics to schedule breaks or requests for assistance so no single employee has to feel overwhelmed.

4) Reread Purpose #6 within “Purposes of Courts Reformulated”: To promote public trust and confidence in the courts [5 minutes]

- What are the concrete ways you’ll commit to serving this purpose of courts? Has your view of the court’s purposes changed over time or since beginning this course?

*** FACILITATOR NOTE:** Answers to these questions are inherently individualized. Refer back to recommended practices outlined in the discussion and suggested by participants throughout the course to provide ideas for ones to sustain going forward. Encourage participants to reflect on how the fundamental purpose of their role and the court may have changed as they identified new ways the court can build public trust and increase perceptions of fairness.

5) Follow-up: Lesson 5 Action Items, if any [5 minutes]

- Did anyone identify a peer familiar with the topic who can serve as a resource to you going forward?

*** FACILITATOR NOTE:** If possible, explore pairing up participants within the discussion group who are willing to take on this action item going forward.

- Were there interviews within To Be Fair that resonated with you or sparked questions for discussion here?

Sample answer: I liked reading Barbara Marcille’s interview about how the Multnomah County (OR) court has infused its staff performance and hiring practices with these concepts, as well as hired a public information officer to better communicate with the communities they serve (pp. 106-108).



ACTION ITEM(S):

[5 minutes]

Congratulate participants on having completed all six lessons! The work to increase their practice of procedural fairness in their court will continue. Participants should review and complete the action item(s) below. If participants have identified any other action items during the course and discussion sessions, they can add them in the blanks below.

1. Complete an evaluation! This can be created by your group's facilitator or you can click [here](#) to take an evaluation created by the Institute for Court Management. Using this guide in hard copy format? Type this URL into your browser to access the evaluation:
<https://www.ncsc.org/pfsurvey>
2. Bookmark www.proceduralfairness.org as a resource you can use going forward. Key components include relevant research, practitioner tools and samples, and a blog.
3. Research shows that new practices take approximately two months to become routine. Set A reminder on your calendar for one and two months from now to review these materials and assess your progress.
4. Idea: bring this group together in person or virtually one month and two months after the course to discuss group members' progress and any aha moments they have had since participating in these sessions.

Other action items (assigned by facilitator or suggested by participants):

Key Takeaways & Resources:

- Procedural fairness will have a stronger effect if it's a concerted effort by judges and court staff.
- We should support each other if we notice someone is struggling to implement procedural fairness.
- Resource: [To Be Fair: Interviews About Fairness](#)
- Resource: www.proceduralfairness.org
- Resource: [Procedural Fairness Blog](#)

Facilitator Guide Only

Parking Lot (Questions/Ideas for Future Consideration)



Closing Thoughts for Facilitators

Thanks again for your engagement with the “Procedural Fairness for Judicial Officers and Court Personnel” course! This facilitator guide was designed to help you and other court professionals deepen their understanding and implementation of procedural fairness practices. Our goal is to ensure that all court professionals have the tools and support they need to deliver a fair and just experience for all court users, thereby enhancing public trust and confidence in our courts.

We welcome feedback on the online course and the Facilitator and Participant Guides to help us make needed improvements. Feedback can be directed to elearning@ncsc.org, and don’t forget to complete an evaluation on the facilitated sessions you attended. Click here for that evaluation: <https://www.ncsc.org/pfsurvey>



Appendix: Website and Publication Resources

National Center for State Courts Resources

- [CourTools Measure #1: Access and Fairness](#). A tool to help courts determine how court users perceived their experience. See the complete CourTools website with all ten measures [here](#). Lesson 3
- [Procedural Fairness for Judges and Courts](#) Lesson 6
- [Procedural Fairness Blog](#) Lesson 6
- Court Review, Special Issue, [Procedural Justice and the Courts](#)
- State of State Courts survey results. This website presents six years of national survey results measuring the level of public trust and confidence in the state courts. [2019 results](#) Lesson 3
- Procedural Fairness / Procedural Justice: A [Bench Card](#) for Trial Judges. Lesson 5

Texas Municipal Court Education Center Resources

- ["Building Public Trust and Confidence Through Model Court Websites,"](#) Texas Municipal Courts Education Center, 2019. This toolkit outlines how procedural fairness principles were incorporated into a court website prototype. Lesson 5
- ["If Walls Could Talk: Can Better Court Signs Help Build Public Trust?"](#) Texas Municipal Courts Education Center, 2019. This toolkit outlines how procedural fairness principles can be incorporated into court signage.

Center for Court Innovation Resources

- ["Measuring Perceptions of Fairness: An Evaluation Toolkit"](#) Center for Court Innovation, 2015. Lesson 3
- [To Be Fair, Center for Court Innovation 2017](#). This book contains practitioner interviews about procedural fairness. Lesson 6
- [Talking About Fairness](#), Center for Court Innovation 2018. This resource is a practitioner guide on convening community dialogues about system fairness. Lesson 4
- [What Do Defendants Really Think?](#) Center for Court Innovation 2018. Study findings featuring surveys and interviews with justice-impacted individuals, including their experiences in criminal court). Lesson 4

National Association for Court Management Resources

- ["Purposes of Courts Reformulated"](#) by Victor E. Flango, May 2018, NACM Court Manager Lesson 1



Appendix: Video Resources

- [American Judges Association Fairness Interviews](#) with nine national leaders in Procedural Fairness. Lesson 1
- [“How Judges Can Show Respect”: Hon. Victoria Pratt’s TED Talk. New Jersey judge Victoria Pratt shares from her own experience about the effectiveness of procedural fairness. This is an excellent introduction to the topic from a judge’s point of view.](#) Lesson 1
- [“Obstacle Courts”](#) This video from the Judicial Council of California’s Advisory Committee on Access and Fairness shows multiple scenarios highlighting the different types of accommodations courts are required to make under the ADA. Lesson 2
- [Procedural Fairness Guide](#): video scenarios with facilitator guide. Lesson 2
- [Purposes and Responsibilities of Courts](#). In this video, father of court administration Ernie Friesen introduces the original eight Purposes of Courts. Friesen compiled the Purposes over years of teaching judges and court personnel. In each course he would ask his students their views on the Purposes & Responsibilities of Courts and this is the result. In the article “Purposes of Courts Reformulated”, the original eight Purposes are also reviewed. The video is a unique chance to hear from Friesen himself on the topic. Lesson 1
- [The Ultimatum Game](#). In this game (note: the game is used in economics and other experiments), two parties interact anonymously and only once, so reciprocation is not an issue. The first player proposes how to divide a sum of money with the second party. If the second player rejects this division, neither gets anything. If the second accepts, the first gets her demand and the second gets the rest. The ultimatum game is important from a sociological perspective, because it illustrates the human unwillingness to accept injustice. Lesson 2
- [Two Monkeys Were Paid Unequally](#): an excerpt from the TED Talk: “Frans de Waal: Moral behavior in animals.” In this video, we observe an experiment with monkeys in which one monkey receives “better pay” (a grape vs. a cucumber) for performing a task. When other monkeys notice the discrepancy, they refuse to continue performing the task. The researcher proposed that humans, like their primate ancestors, have an instinct for fairness. Lesson 2
- [What is Procedural Justice?](#), Center for Court Innovation, 2017. This brief animated video provides an overview of procedural fairness and its benefits and applications in courts. Lesson 1

