



THE SUPREME COURT *of* OHIO

ENSURING THE RIGHT TO BE HEARD

Procedural Fairness for Self-Represented Litigants

“A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to the law.”

–Ohio Rules of Judicial Conduct Rule 2.6(A),
Ensuring the Right to be Heard

Judicial officers have an ethical obligation and duty to provide access to justice to all who use the court system. This resource outlines those duties and provides tips for ensuring procedural fairness for self-represented litigants.

WHAT IS PROCEDURAL FAIRNESS?¹

Parties have the right to be heard by an unbiased decision maker and to be aware of all evidence considered by the decision maker. This promotes increased perceptions of procedural justice. High perception of procedural fairness leads to better acceptance of court decisions, a more positive view of the individual courts and the justice system, and greater compliance with court orders.

INFLUENCES ON PERCEPTION OF PROCEDURAL FAIRNESS¹

- **Voice:** Parties participate in the case by expressing their viewpoints
- **Neutrality:** Consistent application of legal principles by unbiased decision makers who are transparent about how decisions are made
- **Respect:** Parties are treated with courtesy and respect, which includes respect for people’s rights
- **Trust:** Decision makers are perceived as sincere and caring
- **Understanding:** Parties are able to understand court decisions and how decisions are made
- **Helpfulness:** Litigants perceive court staff as interested in their personal situation to the extent that the law allows

Making referrals to any resources available to assist the litigant in the preparation of the case is suggested in the commentary to [ORJC 2.6](#). Here are a few resources to consider:

OHIO SUPREME COURT ACCESS TO JUSTICE

supremecourt.ohio.gov/courts/services-to-courts/court-services/access-to-justice-resources/

LEGAL AID

ohiolegalhelp.org/find-your-legal-aid

The Legal Aid Centers of Ohio map can be found on page 4 of this guide.

FIND A LAWYER

ohiolegalhelp.org/topic/lawyer

OHIO ACCESS TO JUSTICE FOUNDATION

Connect to local legal aid 1-866-LAW-OHIO (1-866-529-6446).

OHIO STATE BAR ASSOCIATION

ohioabar.org/LegalHelp

PRO SENIORS

Statewide hotline (1-800-488-6070) that provides legal advice to individuals 60 and over.

FINANCIAL AID

Ohioans can receive assistance with rent, mortgage, or utilities, from the state of Ohio through their local Community Action Agency. oacaa.org

BEST PRACTICES WHEN WORKING WITH SELF-REPRESENTED LITIGANTS

SET CLEAR EXPECTATIONS

Introduce yourself to all parties as the judicial officer and **explain your role** in the court proceeding. Approach this as if you were introducing yourself to a jury.

Set expectations for parties by providing information about the proceeding.

Ask all parties if they understand those expectations. If someone does not understand, rephrase until they do.

When scheduling future court appearances, explain why you are doing so and how parties can prepare². Suggest parties write down what they want to say or make a list of the evidence they plan to use.

USE PLAIN LANGUAGE

“Legalese” can be a barrier to comprehension. Courts should **simplify written and oral instructions** to ensure information is understood.³ Judicial officers may ask parties, represented or not, whether they understand what was explained or the judicial officer may ask a party to restate, in their own words, what was said.

REMOVE COMMUNICATION BARRIERS

Language barriers can impede a person’s ability to understand a proceeding and may lead to potential issues on appeal. Ensuring that every individual can communicate with the court in the language they speak, will lead to a fair court outcome and avoid national origin discrimination under Title VI of the Civil Rights Act. The Department of Justice requires that state courts must provide meaningful language access for limited English proficient individuals.

Keep in mind, simultaneous interpretation can make it difficult for others in the courtroom to hear. **Allow extra time for hearings when interpreters are scheduled.**

Provide **“I Speak”** cards at points of entry to assist in identifying court users who may need language assistance. Examples include: <https://publicsafety.ohio.gov/static/CJS0007.pdf>

Be mindful of implicit bias. Judicial officers can ensure everyone receives the same treatment in the courtroom by showing patience, active listening, and explanation to court parties. Using these methods can help judicial officers with potential biases that they may not even know exist.



Hearsay objections: Once an objection is made for hearsay, describe for the litigants what hearsay is and why the evidence was not admitted or considered.

TO ACCESS AN INTERPRETER:

1. DIAL: 1 (866) 874-3972
2. PROVIDE: Client ID 512920
3. INDICATE: the language that you need
4. PROVIDE: Access Code

The Supreme Court has set up each court with its own access code. To receive your code, please email the Language Services Program at interpreterservices@sc.ohio.gov

Ensuring the Right to be Heard

EXPLAIN THE COURT PROCESS & BASIS FOR DECISION MAKING

Explain the purpose of each court appearance to the parties.

Articulating the structure of each hearing ahead of time will reduce potential confusion on the day of the hearing.

Explain the process of presenting evidence, questioning witnesses, or providing personal testimony. When a party is assured of their opportunity to address the court or ask questions of witnesses, trust and understanding are built, reassuring the self-represented litigant that they are being fairly heard.

Consistently apply legal principles. Judicial officers earn trust from litigants when legal principles for decision making are explained in plain language and applied consistently. Self-represented parties will not likely have the training regarding evidentiary objections and rulings made during a hearing. It is vital that the judicial officer be patient and address the parties with courtesy and respect.

Explain the legal rationale for each decision in plain language.

Explain the objection process so that the self-represented party understands the expectations of the court. By doing so, the self-represented party has a better opportunity to understand and comply with the court's directives.

ACTIVELY LISTEN & EXERCISE PATIENCE

Active listening requires practice⁴. Keys to active listening include removing distractions, listening to understand, and providing feedback to the speaker indicating that you have understood. When parties are respected and feel that their voice is heard, fairness is perceived.

Remember patience. When asking and answering questions, keep in mind the court process can be very intimidating. Most self-represented litigants are nervous in court. Providing helpful responses while maintaining neutrality will help ease tension and anxiety.

INCREASING ACCESS TO THE COURT

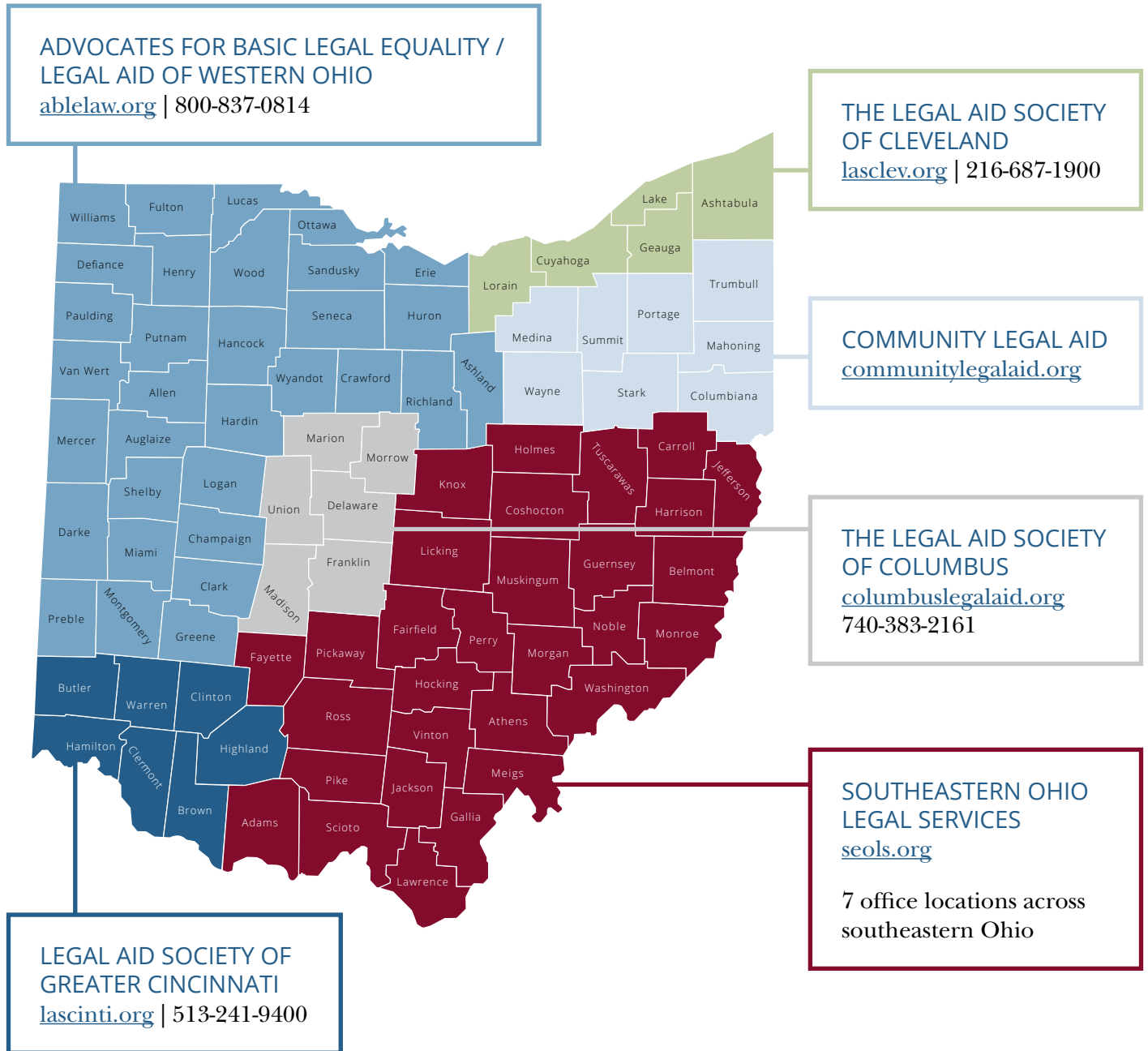
Courts can consider conducting remote or hybrid hearings to increase access that parties have to the court system. For best practice tips on conducting remote or hybrid hearings, please see the [Supreme Court of Ohio's Judicial Guide to Conducting Remote Hearings](#).

Jud.Cond.R. 2.6 Comment [1A] suggests the judicial officer may modify the order of taking evidence during the proceeding as another way to focus the hearing on the material matters before the court.

Example: A hearing is set all day, but the self-represented litigant has a material witness that can only appear in the morning. Consider allowing the witness to be called "out of turn". This can create more trust in the court process and contribute to the idea of perceived fairness to all litigants.



LEGAL AID CENTERS OF OHIO⁵



Endnotes

- 1 *Procedural Fairness: Procedural Justice Bench – A Bench Card for Trial Judges from the National Center for State Courts.* <https://amjudges.org/publications/courtrv/cr53-4/PJ-Bench-Card-Full-Final.pdf>
- 2 *Ohio Legal Help.* <https://www.ohiolegalhelp.org/topic/hearing>
- 3 *National Association for Court Management Plain Language Guide.* <https://nacmnet.org/wp-content/uploads/NACM-Plain-Language-Guide-20190107.pdf>
- 4 *The Drug Court Judicial Benchbook, pg. 50: Section 3.3 Judge as Communicator.* <https://www.ndci.org/wp-content/uploads/2016/05/Judicial-Benchbook-2017-Update.pdf>
- 5 *Legal Aid Centers of Ohio Map.* Adapted from *Ohio Justice Foundation*, <https://www.ohiojusticefoundation.org/advocacy/>