

SPECIFIC OPERATIONAL EXAMPLES OF PROPOSED ACCESS POLICY – prepared by the California Commission on Access to Justice

These examples illustrate the various actions that could be affected by an access policy. While there are many times that committee processes have already worked very successfully without an access policy, establishment of the clear policy goal could help ensure that issues affecting low- and moderate-income litigants are considered on a more systemic basis without depending on who is present at any one meeting, and that policies that create more barriers for low-income litigants are not adopted inadvertently.

Fee Waiver Form Revision – The most recent request for comment on this form was specifically sent to family law facilitators and legal services programs. The response received by the Civil and Small Claims Advisory Committee to the Judicial Council was much higher than normal, helpful input was received, and the comments were overwhelmingly favorable.

Recommending the Setting of Fees – When considering the level of fees to be recommended to the legislature, particularly in limited jurisdiction matters and other areas of the law that involve a high percentage of low- and moderate-income litigants, the Judicial Council and its standing committees should consider the impact that raising fees may have, including whether parties will be more likely to let a default be entered, because of the barrier of increased filing fees, where the parties are not eligible for fee waivers.

Simplifying Forms – An example of a current project of form simplification is the family law subcommittee's efforts, that include judges, domestic violence experts, family law facilitators and private attorneys analyzing the entire structure of family law forms and trying to simplify them. Focus groups have been held of facilitators, legal services advocates, law enforcement representatives and others with expertise explaining issues to self-represented litigants.

Notice Requirements – Access to the courts for low- and moderate-income litigants can be affected by notice requirements that set unduly short periods for response. While shortening response periods may appear to expedite the process, this can seriously disadvantage certain litigants, particularly in unlawful detainer cases where they need to seek counsel and determine the best way to respond in a very short period of time.

E-Filing Rules – Many rules regarding e-filing may have great impact upon low- and moderate-income persons, many of whom do not have access to

credit cards or computers to prepare documents. Any procedures developed regarding e-filing should ensure that all litigants will be able to file their papers with the court without undue burdens.