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THE ALLIANCE
for Equal Justice
MEMBER

March 29, 2019

SENT VIA ELECTRONIC MAIL TO mary.fairhurst@courts.wa.gov

Chief Justice Mary Fairhurst
Washington Supreme Court
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

RE: Request to JISC for Endorsement of Proposed Updates to Technology Principles

Dear Chief Justice Fairhurst:

I am writing about the Access to Justice (ATJ) Board's updated ATJ Technology Principles. The ATJ Board recently approved the latest draft (see enclosed). The Board is hoping the Judicial Information Systems Committee (JISC) will endorse the updated principles. The Board is planning to present the updated principles to the Court later for adoption.

Our ATJ Board liaison to JISC, Terry Price, presented the updated ATJ Technology Principles to JISC in February. I am requesting that you add to the April 26, 2019 JISC agenda, as an action item, the ATJ Board's request for JISC's endorsement of the updated ATJ Technology Principles.

Please let us know if you have any questions or need any more information. You can send any questions or requests to Diana Singleton, Access to Justice Manager, at dianas@wsba.org. Thank you for your consideration.

Respectfully,

Salvador Mungia, Chair

cc: Terry Price

encl: Proposed Updated Technology Principles

Access to Justice Technology Principles

Scope

The Access to Justice Technology Principles are adopted to:

- Guide the justice system's use of technology
- Combat discrimination, unfair treatment, and unjust biases in the justice system, and
- Ensure that technology does not create unfair results or processes for resolving legal problems.

The Access to Justice Technology Principles apply to everyone involved in administering the justice system including:

- Courts,
- Clerks of the Court,
- Administrative Office of the Courts, and
- Court Administrators.

Definition of Technology

"Technology" includes but is not limited to hardware and software, and all mechanisms and means used for the production, storage, retrieval, aggregation, transmission, communication, dissemination, interpretation, presentation, or application of information, including but not limited to data, documents, records, images, video, sound, and other media.

Access to Justice for All

Everyone should have access to the justice system.

Use of technology in our justice system should increase and must not diminish:

- equitable access to justice;
- opportunities for participation; and
- usability, accountability, efficiency, and transparency.

Technology in our justice system must start with a design for fairness and must be evaluated regularly against these rules.

All technology must be designed and used to eliminate discrimination, unfairness, and other unjust systemic biases and practices.

Openness, Privacy and Safety

Technology in the justice system must be open to the public and transparent, unless access is limited by law to protect the safety and privacy of the people involved.

Technology in the justice system must be designed to:

- assure that confidential information is not introduced into the public domain to the extent possible,
- ensure that people only have access to the appropriate information that they are allowed to see based on their role in the justice system,
- assure that information can be viewed, created, changed or deleted only by participants with the appropriate access levels, and
- assure that confidential information is not introduced into the public domain.

People must have meaningful access to view their own information and have it corrected if inaccurate.

Accountability and Fairness

The justice system must maximize the beneficial effects of technology while continuously improving technology to address the needs of people most impacted by or least able to engage effectively with the justice system. Users should have a voice in the acquisition and implementation of technology, including as testers.

The justice system must ensure that technology, especially algorithms, are periodically evaluated before, during and after development and implementation, for:

- inequitable processes,
- unfair outcomes, and
- unintended negative impacts.

Any proposed technology that would result in unfairness or inequity must not be implemented.

Technology that is already implemented that results in unfairness or inequity must be corrected, or if the harm cannot be eliminated, removed from use.

Maximizing Public Awareness and Use

The justice system must provide access to knowledge about itself and promote public awareness of its processes and resources.

Actors in the justice system must:

- regularly seek input from and listen to the public, and
- make regular improvements to technology, and the methods of providing information about the technology, based on user needs, experience, and feedback.

Usability

Technology in the justice system must be easy to use, affordable, and efficient.

Accessible Formats

Court information must be available to the public and should be available in ways that best enable its use. Information and resources must be offered in formats that do not place an undue financial burden upon users.

Plain Language

The justice system must strive to create legal information resources for the public in plain language, when possible.

Best Practices Workgroup

The technology committee of the Access to Justice Board will establish a workgroup that maintains and shares practical information, resources, definitions, and best practices for implementing the ATJ Technology Court Rules. The workgroup will periodically update periodically update these resources and publish them at: [URL]. The workgroup should coordinate with Administrative Office of the Courts and will report to the Access to Justice Board and Judicial Information System Committee annually.

Accessibility

The justice system must consider, design, and implement technology systems for all persons, including those with disabilities.

Cultural Responsiveness

Technology in the justice system should incorporate should incorporate principles and practices which address and respond to cultural variables and diversity of people and communities.

Human Touch

Technology should be used to improve increase the level of quality of human interaction, and to preserve or increase the humanity of our justice system.

Technology should be used to increase the satisfaction of the public's interaction with the justice system to ensure timely and fair outcomes.

Technology should be used to reduce the necessity of the public to physically go to court to resolve conflict.

Language Access

Courts should communicate in the preferred languages of people. Technology must be used in ways which enhance communication.