

Committees and Task Forces of the Hawai'i Access to Justice Commission

Rule 21(f) of the Rules of the Hawai'i Supreme Court provides that the Commission may create such committees as it deems necessary or desirable to facilitate the work of the Commission.

The Commission created committees and various other ad hoc subcommittees and task force groups to carry out and facilitate its mission. Commissioners serve as chairs for the committees. The role of each committee is advisory only, and each committee is intended to make such recommendations to the Commission as the committee determines to be appropriate. The committees, their chairs, their members, and the areas of responsibility assigned to them may be changed at any time by the Commission.

Committees

There are two committees that primarily have organizational or administrative functions (Administration Committee and the Annual Report Committee). The Administration Committee provides the following functions:

- Assist the Chair of the Commission in developing an agenda for each Commission meeting and assist in arranging for presenters and written materials in support of agenda items.
- Assist in providing reports on the status of operations.
- Assist in providing administrative and logistical assistance to the Commission and its committees and task forces.
- Coordinate the activities of volunteers in support of the Commission's initiatives.

The initial charters for the subject matter committees are drawn largely from two sources—the fourteen purposes of the Commission set forth in Supreme Court Rule 21 and the action steps proposed by the Hawai'i Access to Justice Hui in its "Community Wide Action Plan To Increase Access to Justice in Hawai'i by 2010" (the "Community Wide Action Plan"). The Community Wide Action Plan grew out of "The 2007 Assessment of Civil Legal Needs and Barriers of Low- and Moderate-Income People in Hawai'i," and both the Assessment and the Action Plan are included in the Report provided to each Commissioner entitled "Achieving Access to Justice for Hawai'i's People" (the "Report").

The subject matter committees are listed below:

1. Committee on Education, Communications and Conference Planning

Action Step 9(d) of the Community Wide Action Plan stated as follows:

Judges, lawyers and legal services providers should prepare a series of articles on access to justice topics for publication in the Hawaii Bar Journal and make access to justice a regular feature.”

Purpose 8 of Supreme Rule 21 provides as follows:

Encourage lawyers, judges, government officials, and other public and private leaders in Hawai'i to take a leadership role in expanding access to civil justice.

Purpose 9 of Supreme Court Rule 21 provides as follows:

Educate governmental leaders and the public about the importance of equal access to justice and of the problems low-income people in Hawai'i face in gaining access to the civil justice system through informational briefings, communication campaigns, statewide conferences (including an annual summit to report on and consider the progress of efforts to increase access to justice), testimony at hearings, and other means, and increase awareness of low-income people's legal rights and where they can go when legal assistance is needed.

The Committee on Education, Communications, and Conference Planning facilitates the work of the Commission by the following functions:

- a. Assist in organizing an annual conference for presentation of issues related to access to justice.
- b. Make recommendations on encouraging lawyers, judges, government officials, and other public and private leaders in Hawai'i to take a leadership role in expanding access to justice.
- c. Assist in developing strategies for educating governmental leaders and the public about the importance of equal access to justice and of the problems that low-income persons in Hawai'i face in gaining access to the civil justice system. Strategies include informational briefings, communication campaigns, statewide conferences, testimony at hearings, and other means.
- d. Increase awareness of legal rights of low-income persons and where

- e. they can go when legal assistance is needed.
- e. Assist in developing a communications strategy and preparing communications consistent with that strategy.
- f. Encourage judges, lawyers, and legal services providers to prepare a series of articles on access to justice topics for publication in the *Hawaii Bar Journal* and other media.

2. Committee on Funding of Civil Legal Services

Action Step 2 of the Community Wide Action Plan adopted by the Access to Justice Hui in 2007 stated: “Increase funding to support the delivery of legal services to ensure access to justice.” That goal was incorporated in Purpose 4 of Supreme Court Rule 21 as follows:

Increase pro bono contributions by Hawai‘i attorneys through such things as rule changes, recruitment campaigns, and increased judicial involvement, and increased recognition for contributors.

The Committee on Funding of Civil Legal Services facilitates the work of the Commission by the following functions:

- a. Make recommendations and provide advocacy in support of establishing a permanent “home” for the legislative funding of providers of civil legal services to low-income individuals. The aim is that funding for such services may be stable and secure. Make recommendations and provide advocacy in support of increased legislative funding for civil legal services providers.
- b. Make recommendations and provide advocacy in support of increased funding for civil legal services providers by the federal Legal Services Corporation and other federal and state agencies.
- c. Make recommendations and provide advocacy in support of increased funding of civil legal services through the indigent legal services filing fee surcharge and other measures. Assist providers of legal services in exploring additional public and private funding sources and in developing programs or projects for which funding may be sought.
- d. Make recommendations in collaboration with the Judiciary, the HSBA, law firms, and other employers of lawyers, to encourage attorneys to provide substantial financial support to providers of legal services, including additional amounts in years when such attorneys do not meet the aspirational pro bono goals of Rule 6.1 of the *Hawai‘i Rules of Professional Conduct*.

3. Committee on Increasing Pro Bono Legal Services

Action Step 2 of the Community Wide Action Plan adopted by the Access to Justice Hui in 2007 stated: “Develop a culture that values providing pro bono services.”

Purpose 6 of Supreme Court Rule 21 provides as follows:

Increase pro bono contributions by Hawai‘i attorneys through such things as rule changes, recruitment campaigns, increased judicial involvement, and increased recognition for contributors.

The Committee on Increasing Pro Bono Legal Services aids in the work of the Commission by the following functions:

- a. Study best practices in other jurisdictions for increasing the level of pro bono services by lawyers, paralegals, and others who may assist in over-coming barriers to access to justice. Methods include developing effective recruitment campaigns.
- b. Make recommendations concerning ways to develop a culture of commitment to pro bono service among Hawai‘i’s lawyers.
- c. Maintain a list of providers of legal services and others who offer opportunities for pro bono service (including adjustments due to COVID-19), describe the nature of those opportunities, and explore and assist providers in increasing the opportunities they provide for such service.
- d. Make recommendations concerning ways in which to make providing pro bono service more attractive to attorneys. Methods include assisting in developing resources for the pre-screening of cases, ensuring proper training, providing support, and recognizing service.
- e. Make recommendations concerning ways in which the Commission, the Judiciary, and the HSBA—acting alone or in partnership with others—can encourage attorneys to provide higher levels of pro bono service.
- e. Make recommendations concerning ways to encourage law firms and others who employ lawyers (including governmental agencies and corporate law departments) to promote increased pro bono service among their attorneys.
- f. Make recommendations concerning ways to encourage retired lawyers and judges to provide pro bono or staff legal services to low-income persons.

4. Committee on Initiatives to Enhance Civil Justice and Right to Counsel in Certain Civil Proceedings¹

Action Step 9 of the Community Wide Action Plan stated: “increase access to justice in other ways.” Accordingly, Purpose 2 of Supreme Court Rule 21 provides as follows: “Develop and implement initiatives designed to expand access to civil justice in Hawai‘i.”

In addition, Purpose 3 of Supreme Court Rule 21 provides:

Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low-income Hawai‘i residents.

Purpose 12 of Supreme Rule 21 provides:

Develop initiatives designed to enhance recruitment and retention of attorneys who work for nonprofit civil legal services providers in Hawai‘i and to encourage law students to consider, when licensed, the practice of poverty law in Hawai‘i.

The Committee on Initiatives to Enhance Civil Justice helps in the mission of the Commission by the following functions:

- a. Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low-income residents of Hawai‘i.
- b. Study best practices in other jurisdictions and develop and recommend new initiatives to expand access to justice in Hawai‘i.
- c. Make recommendations and provide advocacy in support of enhancing recruitment and retention of attorneys to work as staff members or to volunteer pro bono for non-profit providers of civil legal services in Hawai‘i. Methods may include the following:
 - Establishment by the Hawai‘i legislature of a student loan repayment assistance program to help full-time, non-profit civil legal services attorneys pay back their student loans; and
 - Adoption by the Hawai‘i Supreme Court of rules to permit attorneys actively licensed to practice law by the highest court of a state or territory of the United States or the District of Columbia or Puerto Rico and who are working on staff or volunteering pro bono for non-profit providers of civil legal services. Permission would allow these providers to practice in that capacity for up to one year without

¹ On February 16, 2021, the Hawai‘i Access to Justice Commission voted to combine the Committee on Initiatives to Enhance Civil Justice and the Committee on the Right to Counsel in Certain Civil Proceedings.

- being admitted to practice law in Hawai'i.
- d. Make recommendations concerning ways in which paralegals and other non-lawyers may assist in meeting specified unmet civil legal needs, including whether ethical or procedural rules would need to be changed to accommodate such assistance.

Action Step 4 of the Community Wide Action Plan is: “Establish the recognition of the right to a lawyer in civil cases where basic human needs are at stake.

The Committee on the Right to Counsel in Certain Civil Proceedings assists the Commission by the following functions:

- a. The American Bar Association, at its 2006 annual meeting in Hawai'i, adopted a resolution supporting “legal counsel as a matter of right at public expense to low-income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health, or child custody, as determined by each jurisdiction.”
- b. Study developments in other jurisdictions with respect to establishment and implementation of a right to counsel in certain civil proceedings.
- c. Make recommendations concerning the types of civil matters in which the rights or issues involved are of such fundamental importance that counsel should be provided in Hawai'i, assess to what extent attorneys are available for such matters, and make recommendations on how to assure that counsel is available.

5. Committee on Overcoming Barriers to Access to Justice

Action Step 7 of the Community Wide Action Plan stated: “Overcome barriers to access to justice.” Purpose 7 of the Supreme Court Rule 21 provides as follows:

Reduce barriers to the civil justice system by developing resources to overcome language, cultural, and other barriers and by giving input on existing and proposed laws, court rules, regulations, procedures, and policies that may affect meaningful access to justice for low-income Hawai'i residents.

The Committee on Overcoming Barriers to Access to Justice facilitates the work of the Commission by the following functions:

- a. Make recommendations concerning ways to remove impediments to

accessing the justice system due to language, cultural and other barriers and make recommendations concerning what programs should be initiated to address this barrier, which may include the following:

- Providing multilingual services, including increasing the number of available staff and pro bono attorneys and court personnel who are bilingual
 - Providing forms in multiple languages
 - Providing translation services in court, administrative agencies, and with legal service providers
 - Partnering with the University of Hawai'i and other schools offering language training to encourage multilingual volunteers to provide outreach and translation services
- b. Identify other barriers to obtaining legal assistance and make recommendations concerning ways to address them, such as through the provision of ancillary services, e.g., providing for childcare during a court hearing or for necessary mental health services
 - c. Seek to reduce barriers by recommending input on existing and proposed laws, court rules, regulations, procedures and policies that may affect meaningful access to justice for low- and moderate-income Hawai'i residents.

6. Committee on Self-Representation and Unbundling

Action Step 5 of the Community Wide Action Plan stated: "Enable individuals to represent themselves effectively when necessary." Supreme Court Rule 21 provides as Purpose 11 the following: "Increase support for self-represented litigants, such as through self-help centers at the court."

The Committee on Self-Representation and Unbundling facilitates the work of the Commission by the following functions:

- a. Reduce barriers encountered by self-represented litigants in the court system. Examples include using plain English, translations into other languages, and by simplifying procedural rules.
- b. Make changes to court rules and statutes that would streamline and simplify substantive areas of the law such as family, housing, and landlord-tenant law.
- c. Make changes to court rules to permit limited representation or "unbundled" legal services, and if achieved, make recommendations concerning continuing legal education programs and other ways of promoting unbundling to meet currently unmet legal needs and empowering individuals to represent themselves.

Task Forces

1. Pro Bono Initiative Task Force

The Pro Bono Initiative Task Force was created in the fall of 2012² for the purpose of encouraging law firms and offices to volunteer to staff the Access to Justice Rooms on O‘ahu and self-help centers on the neighbor islands and other legal service provider programs in need of pro bono volunteers.

The Pro Bono Initiative Task Force promotes pro bono service by:

- 1) Coordinating activities with the national pro bono celebration;
- 2) Recognizing significant pro bono service by attorneys at self-help centers, in appellate cases, for legal service providers and in other legally related activities;
- 3) Providing outreach to the statewide community on the importance of volunteerism in general, and pro bono services by attorneys;
- 4) Educating the public on the democratic principles of equal treatment and representation in the legal system; and
- 5) Including the HSBA, the Hawai‘i Supreme Court and judiciary, and the other branches of government in the recognition of pro bono service.

2. Task Force on Paralegals and Other Non-Lawyers

In September 2020, following three months of examination of the impact of the Coronavirus pandemic in Hawai‘i, the Hawai‘i Access to Justice Commission approved the formation of a Task Force on the Impact of the Coronavirus Pandemic (“Task Force”) to address the pandemic’s impact on access to justice. At the time of its formation, the Task Force was one of two such state task forces in the nation, the other being established in Massachusetts.

The purpose of the Task Force was not to duplicate the efforts of other groups. Instead, its initial areas of focus have included:

- 1) Building awareness of the importance of maintaining critical community services provided by the many private and public agencies involved in access to justice initiatives in Hawai‘i.

² See Minutes of the Commission dated November 26, 2012 and Minutes of the HSBA dated December 13, 2012.

- 2) Educating the public on the availability of rent assistance.
- 3) Linking tenants experiencing financial difficulty with free mediation services.
- 4) Informing the public of the various services beyond rent assistance that are available to those struggling with maintaining rental housing.
- 5) Expanding the Second Circuit Volunteer Court Navigator Program to other circuits to provide legal information and services to unrepresented persons in landlord-tenant, debt collection, and district court injunctions against harassment cases.