

Comment from Senior Fellow Russell R. Wheeler on *Nonlawyer Assistance and Representation*  
October 24, 2024

I will be out of the country and unable to dial in to the Oct. 30 meeting. Here are a few suggestions on the revision.

P. line Comment

1 6 As to Mr. Lindenmuth’s suggestion: if “assistance” as used here, means by lawyers (as well as nonlawyers), his fix works well. If that’s not the intended meaning, perhaps “. . . whether by lawyers or nonlawyers, and assistance **such as helping a participant organize files**, are particularly valuable . . .” Either way, it might be helpful to give a preliminary example of assistance, even though page 3 does as well.

11 Are “technologies” strategies or, as stated at line 12, “tools”? If line 11’s “strategies” is changed to “tools”, change “digital” on line 12 to “such”.

2 20 After “agency” consider adding “including the adjudicator”?

2 Footnote 5, line 6: Change “The decision to use” to “Use of”.

3 51-52 The “source of trust” reference may be unclear. Consider using here the same “trust among participants” language at p. 7, line 147. And is there any evidence to support the next sentence, which, written broadly as it is, could be read to say that if representatives with community ties assist participants in agency adjudications, those participants will have greater trust in, say, the criminal justice system.

59-60 Because requirements, burdensome or otherwise, by their nature, can reduce representatives’ availability (their purpose is to reduce the availability of unfit representatives), suggest inserting “unnecessarily” between “can” and “reduce.”

5 95 I understand the heading for this recommendation but suggest changing “qualified” in line 95 to “permitted”.

6 104-06 At the risk of beating a dead horse, I suggest deleting “training” in line 104 and deleting “training and continuing” in lines 105-06.

118 Placed as it is in the sentence, “by nonlawyer representatives” could be read to suggest that those representatives are doing the adjudicating. Perhaps “~~alleged~~**actions violations** ~~by that~~ nonlawyer representatives **have violated those rules**; and imposing . . .”

8 159 Reporting aggregate outcomes (participant success or failure?) “of cases in which parties are represented by nonlawyers” doesn’t say much without comparative references, such as outcomes in cases with no representatives and cases with lawyer representatives. But such comparisons can be misleading (noncitizens fare better in removal proceedings when they have lawyers, including pro bono lawyers, but that difference may be partly because such lawyers avoid devoting scarce time to clearly hopeless cases). Consider something like: “the outcomes, in aggregate, of cases in

which parties have no representation, lawyer representation, or nonlawyer representation (with cautions about unwarranted inferences)".