

Legal Information vs. Legal Advice: Examples

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May I help you?

Legal Advice vs. Legal Information

*A Resource
Guide for
Court Clerks*

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Form MC-800, Court Clerk's Office: Signage



WELCOME TO THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF

WE ARE HAPPY TO HELP YOU IF WE CAN. HOWEVER, WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS, SINCE WE MUST BE FAIR TO EVERYONE.

This is a list of some things the court staff can and cannot do for you.

- We can** explain and answer questions about how the court works.
- We can** provide you with the number of the local lawyer referral service, legal services program, family law facilitator program, and other services where you can get legal information.
- We can** give you general information about court rules, procedures, and practices.
- We can** provide court schedules and information on how to get a case scheduled.
- We can** provide you information from your case file.
- We can** provide you with court forms and instructions that are available.
- We can** usually answer questions about court deadlines and how to compute them.

- We cannot** tell you whether or not you should bring your case to court.
- We cannot** tell you what words to use in your court papers. (However, we can check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number, and presence of attachments.)
- We cannot** tell you what to say in court.
- We cannot** give you an opinion about what will happen if you bring your case to court.
- We cannot** talk to the judge for you.
- We cannot** let you talk to the judge outside of court.
- We cannot** change an order signed by a judge.

Since court staff may not know the answers to all questions about court rules, procedures, and practices, and because we don't want to give you wrong information, we have been instructed not to answer questions if we do not know the correct answers. For additional information, please contact a lawyer or your local law library, or check the California Courts Self-Help Center Web site at www.courtinfo.ca.gov/selfhelp.

Court Clerk's Office signage

INTRODUCTION

In recent years, courts throughout the country have identified an increase in the number of cases filed by individuals without the assistance of counsel. Because court users are unfamiliar with legal processes, they often look to you, court staff, for answers to questions about the legal system.

The Code of Ethics for the Court Employees of California requires you to “furnish accurate information as requested in a competent, cooperative, and timely manner” but to avoid “giving legal advice.” You may already know that you are not supposed to give “legal advice” to court users. However, you may not know exactly what that term means and thus may be unsure of yourself in an important area of your daily work. As a result, when people ask questions where the line between legal information and legal advice is blurry, you may avoid giving appropriate information about court procedures because you don’t want to violate the Code of Ethics. Meanwhile, court users don’t get the information they need and may become frustrated; more significantly, if they don’t follow the right procedure, they may be denied access to the courts.

In an effort to address these concerns, the Judicial Council of California recently approved form MC-800, *Court Clerks Office: Signage*, for display in court clerks’ offices throughout the state. The form is designed for posting at the clerk’s counter or public window at each court location so that court users can read and understand the guidelines that you are required to follow.

This handbook is a quick and easy reference. It is specifically intended for the use of court staff who provide telephone and counter assistance as a major part of their job duties. It is recommended that you keep it in a place where it is easily accessible while you perform these tasks.

Of course, this handbook and the guidelines cannot anticipate all the possible questions that court users may ask. When new questions arise, consult your supervisor. Keep in mind, too, that many court users would benefit from legal counsel. When you are uncertain whether you are being asked to give legal advice, do not hesitate to suggest that they consult an attorney.

YOU CAN EXPLAIN AND ANSWER QUESTIONS ABOUT HOW THE COURT WORKS AND GIVE GENERAL INFORMATION ABOUT COURT RULES, PROCEDURES, AND PRACTICES.

You have an obligation to explain court processes and procedures to court users. Certainly they will find sample pleadings and information packets useful, but you will also need to answer individual questions.

What happens at the arraignment?

At this hearing people are told about the charges that have been filed against them. They are also informed of their rights, including the right to an attorney, and bail is usually discussed.

You also have an obligation to inform litigants and potential litigants about how to bring their problems before the court for resolution. This includes referring them to applicable state and local court rules, explaining how to file a lawsuit or request a hearing, explaining court requirements for documents requesting

relief, and supplying sample forms. If there are court-based self-help centers in the county, you should inform litigants of their availability. The fact that such information may help a litigant does not mean it is improper. Instead, providing this kind of information is an important part of your responsibility to provide service to the public.

One good way to tell whether it is all right to answer a question is to ask yourself whether the information

requested will help someone figure out how to do something. Most of these questions contain the words "Can I?" or "How do I?" Telling someone how to do something is almost always appropriate.

How do I get out of jury duty?

On the back of the jury summons you can find a list of the reasons for which the court may excuse you from jury service.

How do I evict my tenant?

If you are going to represent yourself, I can get you the packet of forms you need. You can also get information about evictions at our law library or from the Online Self-Help Center, located at www.courtinfo.ca.gov/selfhelp.

D O NOT TELL A LITIGANT WHETHER A CASE SHOULD BE BROUGHT TO COURT OR GIVE AN OPINION ABOUT THE PROBABLE OUTCOME.

Analyzing a litigant's particular fact situation and advising him or her to take a certain course of action based on the applicable law is a job for a lawyer, not for court staff. Advising a party what to do, rather than how to do something that party has already chosen to do, is not permitted.

Even though you may have processed hundreds of similar types of cases, you are not in a position to know what is in a litigant's best interest. Only litigants or their attorneys can make that determination. Your role is to provide information about the court's systems and procedures so that a litigant can know enough to make his or her own decision about how to proceed with a case.

My friend's dog bit me. Should I sue him?

You need to decide that for yourself. You may want to talk to a lawyer to help you make that decision. If you decide to file a lawsuit on your own, I can give you a packet of information on how to file a civil action, along with the necessary forms.

What sentence will I get if I plead guilty?

I cannot predict what the judge will do. The judge will decide what sentence to impose based on the facts and the law that apply to your case.

Most of the questions that ask whether to take a particular course of action contain the words "Should I?" So whenever you hear the word "should," the court user may be asking for advice that you cannot provide.

Even though you cannot answer these types of questions directly, there are a lot of ways that you can still help the court user. In many cases, you can point out various options that the person can consider in making his or her decision. You can also provide information about legal services, such as the local bar association or legal aid society, but you should not make a referral to private attorneys or a private agency. You can also refer the person to the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp) and to any court-based self-help center in the county.

Should I get a lawyer?

You are not required to have a lawyer to file papers or to participate in a case in court. I cannot advise you whether you should hire a lawyer in your case. Only you can make that decision. Here is a list of organizations in this area that you can call for free or low-cost legal help if you qualify.

***P*LEASE PROVIDE COURT USERS WITH INFORMATION FROM THEIR CASE FILES, AS WELL AS COURT FORMS AND INSTRUCTIONS.**

You can provide case information to a court user that is public, including the material in most court files. Court files can be very difficult for many people to read and understand, so you may need to provide assistance. It is always appropriate to answer questions about the court procedures and legal terms reflected in public court files and to assist the court user in finding the specific information he or she is seeking.

I want to see my daughter more than the old court order allows. How do I get more time with my daughter?

It sounds like you want to obtain an order from the court modifying your present custody order. Here is an Order to Show Cause form that is usually used to bring that issue before the court, as well as a packet of information on how to fill it out.

Some court files contain confidential information that should never be disclosed. There are many reasons that material in court files may be designated as confidential, including safety and privacy concerns. Disclosure of confidential information could also give an unfair advantage to one side of a case. If you are not sure whether a record is considered public or confidential in your court, check with your supervisor.

It says "relief requested" next to this blank on the form. What do I put there?

I can't tell you what words to use, but you should write in your own words what you want the court to do. If you have any question about the kind of remedies that may be available in your case, you should consult an attorney.

Providing court forms and, when available, written instructions on how to fill out those forms is an important part of a clerk's job. Often court users will not know what forms to request in order to bring their matters before the court. When this happens, you should identify and provide forms that may meet the court user's needs.

Court forms can be confusing, so people frequently ask for help in filling them out. If a court user cannot figure out how to fill out a required form, he or she may be denied access to the court. You can answer questions about how to complete court forms, including where to write in particular types of information and what unfamiliar legal terms mean. You cannot, however, advise a court user on how he or she should phrase responses on a form.

Can I see the Kramer adoption file?

I'm sorry. Adoption files are confidential and may not be viewed by the public.

D O NOT TELL A LITIGANT WHAT WORDS TO USE IN COURT PAPERS OR WHAT TO SAY IN COURT.

You can always answer questions about how to complete court papers and forms. You cannot, however, tell a court user what words to put on the forms. You threaten the court's impartiality if you fill out a form for a court user using your own words. If someone asks you what to say in a form, you should tell the person to use his or her own words to state the information requested.

Would you look over this form and tell me if I did it right?

You have provided all the required information. I cannot tell you whether the information you provided is correct; only you can know that.

You can also check a court user's papers for completeness. This includes checking to make sure that he or she has completed each line that is required to be filled in. Also, you can check for such things as signatures, notarization, correct county name and case number, and the presence of attachments. If the form is incomplete, you should inform the person completing the form of the specific problem and how to fix it.

My form got sent back to me from the court because it was incomplete. What is wrong with it?

It looks like you did not include all the information requested on the back of the form. Once you have filled that out, I'll be happy to file the form for you.

What should I say to the judge when he calls my case?

I can't tell you what arguments to make in court. You will need to decide that for yourself. Here is a handout on effective ways to present your case in court. You can also view a videotape on this subject at our law library.

Sometimes a court user will be unable to fill out a form without assistance because of a disability or illiteracy. In these limited situations, you may fill out a form for a court user, writing down the specific words that he or she provides. The fact that you provided such assistance should be noted on the form itself.

I have a disability that prevents me from filling out this form. Would you fill it out for me?

In that case I can fill out the form for you, but you have to tell me what information to put down. I will write down whatever you say and read it back to you to make sure what I have written is correct.

Litigants often ask what they should say in court. You cannot give advice about specific arguments a person should make while in court or tell people what you think would be the best way to handle a court appearance. You can give out general information about appropriate courtroom behavior. Many courts have informational packets on how to prepare for court hearings that you can give to the litigant.

YOU CANNOT TALK TO A JUDGE ON BEHALF OF A LITIGANT OR ALLOW THAT PERSON TO TALK TO THE JUDGE OUTSIDE OF COURT.

You should always remember the basic principle that neither parties nor attorneys may communicate with the judge *ex parte*. Be sure that you do not violate this restriction by carrying a message from a party to a judge or by speaking to a judge on behalf of a litigant. To do so could give one side in a case an unfair advantage.

I want to see the judge. Where is the office?

The judge only talks with all parties to a case at the same time. You would not want the judge to be talking to the other side about this case if you were not present. The judge will speak to you at your hearing.

message from a party to a judge or by speaking to a judge on behalf of a litigant. To do so could give one side in a case an unfair advantage.

Many self-represented litigants feel that they have a right to see the judge in the judge's chambers to explain their situations and problems. When a litigant asks to meet with the judge, you should explain that the judge can see a party only at the hearing or trial, when the other side is also present. While you are explaining this rule, it sometimes helps to ask litigants how they would feel if the judge had a private meeting with the other side in their case. You can also explain procedures, such as a motion, that would allow the litigant to properly bring his or her concerns to the court's attention.

Many self-represented litigants feel that

What is an "ex parte"?

It is a Latin term that refers to one-sided contact with the court. In most cases ex parte contacts with the court are not allowed.

Some courts delegate certain decisions to clerk's

offices, especially on procedural matters and on cost and fee awards. You should avoid *ex parte* contacts while making such decisions. Be sure that you have heard from both sides before deciding an issue and avoid even the appearance of giving one party an advantage in the process.

I know that I can't talk to the judge. But you're nice – could you please take her this message for me?

I'm sorry, I can't do that for you. It wouldn't be fair for me to present your concerns to the judge when the other side in your case is not there. But I can help you schedule a hearing with the judge so that both sides in your case can be present.

YOU SHOULD PROVIDE COURT USERS WITH SCHEDULES AND INFORMATION ON HOW TO GET A CASE SCHEDULED. YOU CAN ALSO ANSWER MOST QUESTIONS ABOUT COURT DEADLINES AND HOW TO COMPUTE THEM.

You can always give out information on court calendar settings and tell court users how to get matters placed on calendar. This is one of the most important things you can do to make sure people have access to the courts. When court users cannot figure out how to get a case scheduled for hearing, they cannot even begin the process of getting a judge to decide the case.

It is often helpful to provide court users with written court schedules and information packets dealing with how to get a case set for hearing. Many courts

now have this information on their court Web site, and there is a good general discussion of this topic in the Online Self-Help Center, at www.courtinfo.ca.gov/selfhelp.

When do I have to file my opposition papers on this motion?

Unless the court has ordered otherwise, the law requires that all papers opposing this kind of motion must be filed and served on the opposing party 10 calendar days before the hearing. If you like, I can give you a handout on motion filing deadlines and how to calculate them.

What is the last day I can file my lawsuit?

The time for filing your case can vary depending on the particular facts involved. Determining the last day for filing a lawsuit is very difficult to do. You should consult a lawyer to help you figure this out.

Providing assistance with court deadlines is a little more complicated. You can help court users calculate routine filing deadlines associated with most court hearings. Court rules state when weekends and holidays are included and when they are excluded

in counting the number of days. Court staff should help court users correctly apply these rules. Remember, if you are not sure what the filing deadline is on a particular matter, it is always appropriate to say, "I don't know."

On the other hand, you should not attempt to explain the statute of limitations to court users. Those rules are very complicated, and it would be very easy to give incorrect or misleading information.

When it comes to court deadlines, a good rule to remember is that if you can reject a document as untimely, then you can assist a court user in understanding why it was untimely. You can also explain how to calculate the deadline for filing that type of document in advance so it can be filed in a timely way.

I figured out that I have to file my papers 10 days before the hearing, but that day falls on a holiday when the court is closed. What do I do?

Your situation falls within an exception to the 10-day rule. You must file and serve your papers by the end of court business on the next day that the court is open following the holiday.

YOU CAN PROVIDE PHONE NUMBERS FOR THE LOCAL BAR ASSOCIATION REFERRAL SERVICE, LEGAL SERVICES PROGRAM, FAMILY LAW FACILITATOR PROGRAM, AND OTHER LEGAL INFORMATION SERVICES.

It is the policy of the California courts to encourage litigants to use lawyers because court cases often involve legal issues beyond the understanding of the ordinary person. You can always make general referrals to associations and public agencies that provide legal services or information. A good place to start

How do I get my ex to pay child support?

You can start by visiting the family law facilitator in Room 210. You can talk to the family law facilitator for free. The facilitator is an attorney who works for the court and helps people with support issues. He or she can help you fill out the forms and understand more about your case and what your options are.

Since court clerks must remain neutral and impartial at all times, you cannot make referrals to a specific lawyer, law firm, or paralegal service.

Many courts have prepared handouts that include contact information for local legal services organizations. Such written materials are very useful to court users and can provide you with a handy list of appropriate referral organizations.

You can also tell court users that they can ask friends or colleagues for the name of a lawyer or even find one by checking the yellow pages of the phone book. Many of them are surprised to learn that lawyers will often give an initial consultation at no cost and that some will agree to provide limited representation—giving advice or preparing particular papers—at a reduced fee.

Could you check to see if there are any liens on my property?

We don't have those kinds of records in this office. You can find that information at the County Recorder's office. It's located only a few blocks from here. Let me show you how to get there on this map of local government buildings.

is with the local bar association referral service. You should explain that although this is a free service, the lawyer will charge a fee. You can also provide information regarding other public legal services programs that may meet the needs of court users and refer them to any court-based self-help center in the county.

I need a good lawyer. Who is the best?

I can't refer you to an individual lawyer because the court must always remain neutral in all matters. I can give you information on the local bar association's lawyer referral service if you want help in finding a lawyer who specializes in your kind of case. You might also want to check out the Web site for the State Bar of California, www.calbar.ca.gov, which includes a section on ways to find a good lawyer.

representation—giving advice or preparing particular papers—at a reduced fee.

Sometimes people call the court when they don't know whom else to call about their problems. Keep a list of contact numbers for local government agencies and departments so you can point people in the right direction.

SUPREME COURT OF COLORADO

OFFICE OF THE CHIEF JUSTICE

Directive Concerning Colorado Courts' Self-Represented Litigant Assistance

This directive concerns assistance provided by Clerks, Family Court Facilitators, Self-Represented Litigant Coordinators, and others to litigants or potential litigants in *non-criminal matters*.

Authority for Self-Represented Litigant Assistance

The Colorado Courts provide self-help assistance to Self-Represented Litigants to facilitate access to the courts. The goal is to provide, within the bounds of this directive, assistance to achieve fair and efficient resolution of cases, and to minimize the delays and inefficient use of court resources that may result from use of the court system by litigants who are not represented by lawyers. There is a compelling state interest in resolving cases efficiently and fairly, regardless of the financial resources of the parties.

Definitions

- (a) "Self-Represented Litigant" means any individual who seeks information to file, pursue, or respond to a case without the assistance of a lawyer authorized to practice before the court.
- (b) "Self-Help Personnel" means court employees and court volunteers who are performing services as part of the Colorado Courts' Self-Represented Assistance. Self-Help Personnel include court clerks, family court facilitators, self-represented litigant coordinators, law librarians, and others who work to provide Self-Represented Assistance. Those court employees and court volunteers who are licensed lawyers are governed by this CJD in the same way that court employees and court volunteers who are not lawyers are governed. The State Court Administrator's Office and local districts will provide appropriate training to Self-Help Personnel.
- (c) "Court Volunteers" are volunteers who volunteer for the court in helping to provide information to self-represented litigants. Court volunteers are not volunteering as or on behalf of a lawyer, law firm or law practice and as such, consistent with this CJD, do not provide legal advice.
- (d) "Self-Represented Assistance" means support and guidance provided by Self-Help Personnel within the scope and limitations of this Chief Justice Directive, including collaboration and coordination with legal and community resources.

- (e) “Approved forms” means the standardized forms and detailed instructions that have been approved by the State Court Administrator’s Office and appear on the state judicial website, forms printed in the Colorado Supreme Court Rules, and local forms to facilitate following local case-processing procedures.

Role of Self-Help Personnel

- (a) **Basic Services.** Self-Help Personnel may provide the following services:
 - (1) Provide general information about court procedures and logistics, including requirements for service, filing, scheduling hearings and compliance with local procedure;
 - (2) Provide, either orally or in writing, information about court rules, terminology, procedures, and practices;
 - (3) Inform Self-Represented Litigants of available pro bono legal services, low cost legal services, unbundled legal services, legal aid programs, alternative dispute resolution services including mediation and services offered by the Office of Dispute Resolution, lawyer referral services, and legal resources provided by state and local libraries;
 - (4) Encourage Self-Represented Litigants to obtain legal advice without recommending a specific lawyer or law firm;
 - (5) Explain options within and outside the court system, including providing information about community resources and services;
 - (6) Provide information about domestic violence resources;
 - (7) Offer educational sessions and materials, as available, and provide information about classes, such as parenting education classes;
 - (8) Assist Self-Represented Litigants in selecting the correct forms, and instructions on how to complete forms, based on the Self-Represented Litigant's description of what he or she wants to pursue or request from the court, including, but not limited to, providing forms for the waiver of filing fees. Where no form exists to accomplish the Self-Represented Litigant's request, Self-Help Personnel should inform the litigant of that fact;
 - (9) Record information provided by the Self-Represented Litigant on approved forms if that person cannot complete the forms due to disability, language, or literacy barriers;
 - (10) Assist Self-Represented Litigants to understand what information is needed to complete filling in the blanks on approved forms;

- (11) Review finished forms to determine whether forms are complete, including checking for signatures, notarization, correct county name, and case number;
- (12) Assist in calculating child support using the standardized computer-based program, based on financial information provided by the Self-Represented Litigant;
- (13) Answer general questions about how the court process works;
- (14) Answer questions about court timelines;
- (15) Provide docket information;
- (16) Provide information concerning how to get a hearing scheduled;
- (17) Inform Self-Represented Litigants of the availability of interpreter and sign language assistance and process requests for such services;
- (18) At the direction of the court, review Self-Represented Litigants' documents prior to hearings to determine whether procedural requirements have been met;
- (19) Assist Self-Represented Litigants with preparation of proposed court orders based upon the parties' agreement or stipulation for signature of judge or magistrate;
- (20) Answer questions about whether an order has been issued, where to get a copy if one was not provided, and read the order to the individual if requested;
- (21) Provide a Self-Represented Litigant with access to information from a case file that has not been restricted by statute, rule or directive, including CJD 05-01;
- (22) Provide assistance based on the assumption that the information provided by the Self-Represented Litigant is accurate and complete;
- (23) Provide the same services and information to all parties to an action, as requested;
- (24) Provide language and/or citations of statutes and rules, without advising whether or not a particular statute or rule is applicable to the situation;
- (25) Provide other services consistent with the intent of this Chief Justice Directive and the direction of the court, including programs in partnership with other agencies and organizations.

(b) Prohibited Services. Self-Help Personnel shall not:

- (1) Recommend whether a case should be brought to court;

- (2) Give an opinion about what will happen if a case is brought to court;
- (3) Represent litigants in court;
- (4) Tell a Self-Represented Litigant that Self-Help Personnel may provide legal advice;
- (5) Provide legal analysis, strategy, or advice;
- (6) Disclose information in violation of a court order, statute, rule, chief justice directive, or case law;
- (7) Deny a Self-Represented Litigant access to the court;
- (8) Tell the Self-Represented Litigant anything Self-Help Personnel would not repeat in the presence of the opposing party, or any other party to the case;
- (9) Refer the Self-Represented Litigant to a specific lawyer or law firm for fee-based representation.

Assistance by Self-Help Personnel is not the Practice of Law

The performance of services by Self-Help Personnel in accordance with this directive is not the practice of law, as Self-Help Personnel are to provide neutral information and are not to give legal advice. Information provided by a Self-Represented Litigant to Self-Help Personnel is neither confidential nor privileged. No attorney-client relationship exists between Self-Help Personnel and a Self-Represented Litigant.

Assistance by Lawyers and Nonlawyer Assistants who are not Self-Help Personnel

When Self-Help Personnel refer Self-Represented Litigants to community resources and services, this may include referrals to lawyers and law firms who can provide short-term limited legal services. Lawyers, and their nonlawyer assistants, as that term is used in the Colorado Rules of Professional Conduct 5.3, are guided by the Colorado Rules of Professional Conduct, including, but not limited to Rule 6.5 which addresses court-annexed limited legal services programs.

Availability of Services

Subject to available resources, assistance is available to all Self-Represented Litigants. Self-Help Personnel may direct Self-Represented Litigants to other appropriate services where the inquiry is better addressed. Some limited examples are: the Office of the District Attorney for questions about victims' services; the Americans with Disabilities Act coordinator in the location, for information about accommodations necessary to the Self-Represented Litigant; the collections investigator for information about payment of court costs; the clerk and recorder, for

information about property records; and the Division of Revenue, Motor Vehicle Division, for information about drivers' licenses or state identification.

Copy Costs

Courts may require Self-Represented Litigants to pay the reasonable copying costs of providing forms and instructions to Self-Represented Litigants, provided that the charge for persons who are indigent may be reduced or waived, as required by statute, rule or directive, including CJD 06-01.

Notice to Self-Represented Litigant

Self-Help Personnel shall provide and, if necessary, review with the Self-Represented Litigant, the below "Notice to Self-Represented Litigant." Such notice shall also be available through conspicuous posting and be made available in other languages, as needed.

NOTICE TO SELF-REPRESENTED LITIGANT

Self-help services are available to all persons who seek information to file, pursue, or respond to a case without the assistance of a lawyer authorized to practice before the court, within the resources available to Self-Help Personnel.

Self-Help Personnel are neutral information providers and will provide the same services and information to all parties in a case, if requested.

Self-Help Personnel are employees of the court or volunteers for the court and are available to provide information about court procedures, practices, rules, terminology, and forms, as well as community resources and services. They will assist you by providing information in a neutral way, but cannot act as your lawyer or provide legal advice.

Self-Help Personnel will explain the court process, will help you to understand what information is needed to fill in the blanks on a form, and will review your forms for completeness, but cannot tell you what your legal rights or remedies are, represent you in court, or tell you how to testify in court.

Self-Help Personnel will listen to you to help you locate forms and understand the information you need for your case, but because the Self-Help Personnel are court employees or court volunteers, any information you share with them is not confidential or privileged.

No attorney-client relationship exists between Self-Help Personnel and you as a Self-Represented Litigant. If you need a lawyer or legal advice, Self-Help Personnel will help you find community resources and services without recommending a specific lawyer or law firm.

Self-Help Personnel are not responsible for the outcome of your case.

Self-Help Personnel are not investigators and cannot provide investigative services.

Self-Help Personnel are court employees or court volunteers not acting on behalf of any particular judge. The presiding judge in your case may require that you change a form or use a different form. The judge is not required to grant the relief you request in a form.

In all cases, it is best to obtain the assistance of your own lawyer, especially if your case presents significant or complicated issues. If requested, Self-Help Personnel will help you find community resources and services without recommending a specific lawyer or law firm.

**For more information about the court's self-help assistance, see Chief Justice Directive 13-01, which is available at http://www.courts.state.co.us/Courts/Supreme_Court/Directives/Index.cfm.
(end of notice)**

Done at Denver this 12th day of June, 2013.

_____/s/_____
Michael L. Bender, Chief Justice

I. Role and Responsibilities of the Volunteer Court Navigator

The Volunteer Court Navigator will assist self-represented litigants when appearing in court. Here is a list of what a Volunteer Court Navigator must do and guidelines on what the Volunteer Court Navigator may and shall not do.

What a Volunteer Court Navigator Must Do To Participate in the Program

- A Volunteer Court Navigator must read these guidelines and participate in the training.
- A Volunteer Court Navigator must come to court on time and on the dates he or she signed up for. If there is an emergency that prevents the Volunteer Court Navigator from coming to court, he or she must notify the appropriate person or persons.
- A Volunteer Court Navigator must fulfill the volunteer hours he or she has agreed to provide.
- A Volunteer Court Navigator must dress appropriately and professionally. A suit is not required, but no jeans, no shorts, no slippers are permitted.
- A Volunteer Court Navigator must wear an identification badge at all times in the courthouse. The identification badge must be returned before leaving the courthouse.
- A Volunteer Court Navigator must act professionally at all times. A Volunteer Court Navigator shall not be rude or hostile and shall not curse or use inappropriate language.

What a Volunteer Court Navigator May Do

A Volunteer Court Navigator can help self-represented litigants in the following ways:

- Have an initial discussion with the litigants to explain the process and listen to their concerns.
- Describe the courtroom protocol.
- Describe the various individuals in the court and their roles as judge, court clerk, bailiff, sheriff, and law clerk.
- Accompany the litigants during hallway negotiations with opposing attorneys, solely to assist in taking notes, answering factual questions, and scheduling.
- Accompany the litigants during the mediation process, solely to assist in taking notes regarding the discussions.

- Accompany the litigants into the courtroom or conferences with the judge.
- Provide notes or reminders to litigants about the court proceedings, where and when necessary.
- Take notes during any court conference or hearing to discuss with litigants afterwards so that the litigants understand what has been said or decided by the court and what the litigants must do to comply with any directions they may have been given by the court.
- Respond to any questions by judge asking for factual information on the case.
- If necessary, provide help with needed social services.

What a Volunteer Court Navigator Shall Not Do

- A Volunteer Court Navigator shall not provide legal advice to an unrepresented person.
- A Volunteer Court Navigator shall not get involved in negotiations or settlement conferences.
- A Volunteer Court Navigator shall not give an unrepresented person personal advice.
- A Volunteer Court Navigator shall not give an unrepresented person or any attorney his or her personal contact information.
- A Volunteer Court Navigator shall not hold himself or herself out as a court employee.
- A Volunteer Court Navigator shall not interpret for the opposing side or in the courtroom.
- A Volunteer Court Navigator shall not participate or interfere in a settlement negotiation.
- A Volunteer Court Navigator shall not act in a hostile or rude manner to anyone in the courthouse.
- A Volunteer Court Navigator shall not disclose health information provided by an unrepresented person.
- A Volunteer Court Navigator shall not provide information to a judge unless directly asked a factual question by the judge.

Self-Help Resources and Referrals

Private Attorneys	Illinois LawyerFinder: Call (800) 922-8757 or visit http://www.illinoislawyerfinder.com/
Legal Aid & Pro Bono Attorneys	CARPLS (Cook County): Call (312) 738-9200 or visit https://www.carpls.org/ Prairie State Legal Services (Northern Illinois): For contact information visit https://pslegal.org/ Land of Lincoln (Southern Illinois): Call (877) 342-7891 or visit http://lollaf.org/
Mediation & Arbitration	List of programs in Illinois: http://courtadr.org/sourcebook/
Public & Law Libraries	Check your local resources
Legal Self-Help Centers	List of programs in Illinois: https://www.illinoislegalaid.org/get-legal-help/lshc-directory
Pro Bono Clinics & Help Desks	Check your local resources
Social Service Providers	Mental health programs in Illinois: http://www.dhs.state.il.us/page.aspx?item=3089 Emergency and transitional housing programs in Illinois: http://www.dhs.state.il.us/page.aspx?item=646863 Supportive housing programs in Illinois: http://www.dhs.state.il.us/page.aspx?item=64687
Standardized Forms	Statewide forms and instructions available in six languages: http://www.illinoiscourts.gov/Forms/approved/
Language Access Tools	Circuit plans and statewide interpreter registry: http://www.illinoiscourts.gov/CivilJustice/LanguageAccess/default.asp
Domestic Violence Programs	DV programs in Illinois: http://www.dhs.state.il.us/page.aspx?item=31886
IllinoisLegal Aid Online	Free legal information and forms for civil, domestic, expungement, and traffic legal problems: https://www.illinoislegalaid.org/

Tips for Making Strong Referrals



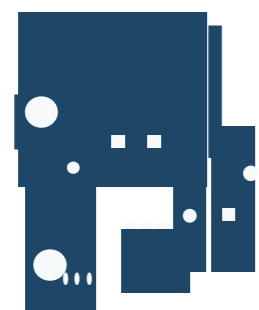
Double Check

Check your resources periodically to see if services, hours, eligibility, or contact information has changed.



Write It Down

Litigants may be overloaded with information at court. Write it down or use a referral sheet to help.



Be Specific

Provide information about the scope of services available, the application process, and any eligibility criteria



Manage Expectations

Inform litigants of possible limitations (e.g. referral cannot take all cases, may require waiting)



The AOIC Can Help! For more information on access to justice resources, including the Safe Harbor Policy; standardized forms; language access tools; courthouse signs; and self-help templates, please contact Samira Nazem at snazem@illinoiscourts.gov or (312) 793-2305.

How Can I Best Assist Self-Represented Litigants?

The Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers outlines the services that can be provided to self-represented litigants and other court patrons. Services offered in accordance with this policy do not constitute the unauthorized practice of law. View the full text at: http://www.illinoiscourts.gov/SupremeCourt/Policies/Pdf/Safe_Harbor_Policy.pdf.

Legal Information Is...

general, factual information about the law and the legal process that is both neutral and objective.

Legal Advice Is...

guidance regarding an individual's legal rights and obligations in light of their unique facts and circumstances.

Should versus Could: Turning Legal Advice into Legal Information

Court patrons may ask for legal advice ("What **should** I do?") but by changing one word, you can turn legal advice into legal information.

Example: How **should** I serve someone?

Answer: I can't tell you what to do, but I can explain your options. There are three approved methods of service you **could** choose.. Here are some resources with more information...

I Can...	I Cannot...
Tell a litigant what they can do	Tell a litigant what they should do
Explain a process to a litigant	Make a prediction for a litigant
Share all available options	Suggest one particular option
Give a litigant information that may help them make an informed decision	Make a decision on behalf of a litigant
Provide forms and basic instructions	Fill out forms (except for specific exceptions)
Refer to bar associations and legal aid	Refer to individual private attorneys
Help individuals with disabilities or low literacy by reading documents out loud and/or writing down their answers word-for-word	Make suggestions about what to write on a form or change a litigant's words in any way
Refer a litigant to legal and non-legal resources inside or outside the courthouse	Represent a litigant in the courtroom
Assist a litigant with self-guided research	Provide legal analysis or legal research
Share publicly available case information	Share information from sealed cases
Review forms for completeness	Review forms for accuracy
Give information about requesting interpreters and reasonable accommodations	Limit access for litigants with limited English proficiency or disability
Inform all litigants about fee waivers	Decide who should get their fees waived



Illinois Supreme Court Policy

On Assistance to Court Patrons by Circuit

Clerks, Court Staff, Law Librarians, and Court

Volunteers

Effective April, 2015

**ILLINOIS SUPREME COURT POLICY ON ASSISTANCE TO COURT PATRONS
BY CIRCUIT CLERKS, COURT STAFF, LAW LIBRARIANS, AND COURT
VOLUNTEERS**

(a) Purpose and Scope.

The purpose of this policy is to provide guidance to circuit clerks, court staff, law librarians, and court volunteers acting in a non-lawyer capacity as to what services may and may not be offered to assist court patrons to achieve fair and efficient resolution of their cases.

No court patron should be denied services permitted under this policy on the basis of being a self-represented litigant. Services to court patrons should be provided in a nondiscriminatory manner to all applicants without regard to race, color, religious creed, ancestry, national origin, age, sex, disability, sexual orientation or any category prohibited by federal or Illinois law.

(b) Definitions.

- (1) "Court patron" means any individual who seeks information to file, pursue or respond to a case on his or her own behalf or on the behalf of another.
- (2) "Self-represented litigant" means any individual who seeks information to file, pursue or respond to a case on his or her own behalf where a licensed attorney has not filed an appearance on behalf of that individual.
- (3) "Legal information" means general factual information about the law and the legal process. Legal information is different from legal advice, which involves giving guidance regarding an individual's legal rights and obligations in light of his or her particular facts and circumstances. Legal information is neutral.
- (4) "Approved forms" mean standardized forms and related instructions that have been approved pursuant to Supreme Court Rule 10-101; forms included in the Illinois Supreme Court Rules; and local circuit court forms adopted to facilitate local case-processing procedures.

(c) Prohibited Services. Circuit clerks, court staff, law librarians, and court volunteers—acting in a non-lawyer capacity on behalf of the court—shall not:

- (1) Recommend whether a case should be brought to court or comment on the merits of a pending case;
- (2) Give an opinion about what will happen if a case is brought to court;
- (3) Represent litigants in court;
- (4) Provide legal analysis, strategy or advice to a court patron, or perform legal research other than assistance in self-guided legal research for any court patron;

- (5) Disclose information in violation of a court order, statute, rule, case law or court directive;
- (6) Deny a self-represented litigant access to the court or any services provided to other court patrons.
- (7) Tell a litigant anything he or she would not repeat in the presence of any other party involved in the case;
- (8) Refer a litigant to a specific lawyer or law firm for fee-based representation; or
- (9) Otherwise engage in the unauthorized practice of law as prohibited by law.

(d) Permitted Services. To assist court patrons, circuit clerks, court staff, law librarians, and court volunteers—acting in a non-lawyer capacity on behalf of the court—may, as resources and expertise permit:

- (1) Provide legal information about court rules, court terminology and court procedures, but not limited to providing information regarding; requirements for service, filing, scheduling hearings and compliance with local procedure;
- (2) Inform court patrons of legal resources and referrals if available,, including but not limited to:
 - a. Pro bono legal services;
 - b. Low-cost legal services;
 - c. Limited scope legal services;
 - d. Legal aid programs and hotlines;
 - e. Law and public libraries;
 - f. Non-profit alternative dispute resolution services;
 - g. Lawyer referral services;
 - h. Internet-based resources;
 - i. Court-sponsored or -affiliated educational classes, including, but not limited to, parenting education and traffic safety classes and alternative dispute resolution services;
 - j. Units or departments of government; or
 - k. Domestic violence resources.
- (3) Encourage self-represented litigants to obtain legal advice from a lawyer;
- (4) Provide information about security protocols at the courthouse and directions around the courthouse, including, but not limited to, photocopier and telephone locations, children's waiting room locations and other courthouse offices;
- (5) Offer educational classes and informational materials;
- (6) Assist court patrons in identifying approved forms and related instructions based on the court patron's description of what he or she wants to request from the court, including but not limited to, providing approved forms for the waiver of filing fees. When necessary, explain the nature of the information required to fill out the approved forms. Where no approved form exists to accomplish the court patron's request, inform the litigant of that fact and direct him or her to other legal resources;

- (7) Record verbatim information provided by the self-represented litigant on approved forms if that person is unable to complete the forms due to disability or literacy barriers;
- (8) Review finished forms to determine whether forms are complete, including checking for signature, notarization, correct county name and case number;
- (9) Provide assistance to litigants pursuing self-guided research;
- (10) Provide docket information, including but not limited to:
 - a. Stating whether an order has been issued
 - b. Explaining how to get a copy if one was not provided
 - c. Reading the order to the individual if requested
 - d. Providing instructions about how to access such information;
- (11) Inform court patrons of the process for requesting a foreign language or sign language interpreter;
- (12) At the direction of the court, review documents for completeness prior to hearing;
- (13) Provide a court patron with access to a case file that has not been restricted by statute, rule or order, or instructions about how to obtain such access;
- (14) Provide the same services and information to all parties to an action, as requested;
- (15) Provide services based on the assumption that the information provided by the court patron is accurate and complete;
- (16) Provide other services consistent with the intent of this policy.

(e) Unauthorized Practice of Law and Privilege.

Services provided in accordance with section (d) of this policy do not constitute the unauthorized practice of law. Information exchanged in accordance with section (d) of this policy is neither confidential nor privileged, except as otherwise protected by law. Services provided in accordance with section (d) of this policy do not create an attorney-client relationship. It should be communicated through the use of signage or a direct, in-person disclosure to court patrons that information and services provided in accordance with section (d) of this policy are not confidential, privileged or create an attorney-client relationship.

(f) Rules of Professional Conduct. Circuit clerks, court staff, law librarians, and court volunteers—who are licensed attorneys, licensed law student interns and other persons working under the supervision of an attorney—must abide by all applicable Rules of Professional Conduct when providing services and information in accordance with section (d) of this policy.

(g) Copy Fees. Court patrons may be required to pay a reasonable printing or reproduction fee for forms and instructions. However, the fee may be reduced or waived for persons who are otherwise eligible to sue or defend without cost pursuant to the Code of Civil Procedure.

II. What Navigators Can and Can't Do

Court navigators can do many things to assist unrepresented tenants with their cases. But because navigators aren't directly supervised by attorneys taking full responsibility for their work, there are also many things navigators can't do, because of the laws against the unauthorized practice of law (UPL). Navigators need to stay on the right side of the line between appropriate assistance and UPL, and this class will provide detailed guidance on how to do that.

A. The law on the unauthorized practice of law

With a few specific exceptions, Maryland's Business Occupations and Professions Law (B.O.P.L.) limits the "practice of law" to licensed attorneys only. The part of the law that is most relevant for navigators is below:

§ 10-206. Admission required; exceptions

(a) In general. – Except as otherwise provided by law, before an individual may practice law in the State, the individual shall:

- (1) be admitted to the Bar; and
- (2) meet any requirement that the Court of Appeals may set by rule.

(b) Exceptions – In general. – This section does not apply to:

- (1) a person while representing a landlord in a summary ejectment or a rent escrow proceeding in the District Court of Maryland;
- (2) a person while representing a tenant in a summary ejectment or a rent escrow proceeding in the District Court of Maryland if the person is:
 - (i) a law student practicing in a clinical law program at a law school accredited by the American Bar Association with the in-court supervision of a faculty member; or
 - (ii) employed by a nonprofit organization receiving grants from the Maryland Legal Services Corporation and:
 1. the person has training and experience;
 2. the person is supervised by a lawyer; and
 3. the supervising lawyer's appearance is entered in the proceeding ...

Notice certain details of this law. First, navigators aren't covered by this provision because technically they are not "supervised" by a lawyer (even though they will sometimes collaborate with other lawyers and be overseen by the instructor who is a lawyer). Second, landlords and tenants don't have parity under the law when it comes to the assistance of nonlawyers. Landlords can have agents who are nonlawyers represent them, but tenants can only have lawyers or certain lawyer-supervised persons to represent them. In other words, tenants have many more limitations on who can represent them in court. This law is why navigators can provide tenants with assistance but not representation, while landlord agents can provide landlords with both.

Also note that in order to avoid violating this law, it is necessary to understand what constitutes the practice of law. Another part of Title 10, B.O.P.L. § 10-101(h), gives a definition of that.

- (1) "Practice law" means to engage in any of the following activities:
- (i) giving legal advice;
 - (ii) representing another person before a unit of the State government or of a political subdivision; or
 - (iii) performing any other service that the Court of Appeals defines as practicing law.
- (2) "Practice law" includes:
- (i) advising in the administration of probate of estates of decedents in an orphans' court of the State;
 - (ii) preparing an instrument that affects title to real estate;
 - (iii) preparing or helping in the preparation of any form or document that is filed in a court or affects a case that is or may be filed in a court; or
 - (iv) giving advice about a case that is or may be filed in a court.

Of course, nonlawyers already do engage in many of these activities while working in law offices and for legal services providers. And they are allowed to do so as long as they are under the direct supervision of a lawyer who takes full responsibility for the work of the nonlawyer. By contrast, court navigators do not work under the supervision of a lawyer who is taking full responsibility for their work. That means that they have to avoid engaging in any of these activities that are listed as being part of the practice of law.

The definition in § 10-101(h) of what constitutes the practice of law might seem to greatly limit what unsupervised nonlawyers can do. But this law has been interpreted by the Maryland Attorney General's office to be less restrictive than it sounds. There are things commonly done by unsupervised nonlawyers in Maryland that could be viewed as violating this statute but that aren't.

For example, this definition says that practicing law includes "representing another person before a unit of the State government or of a political subdivision." But some administrative agencies in Maryland have regulations that expressly allow nonlawyers to represent a party before those agencies, which are seemingly units of State government or political subdivisions of State government. And there are lots of nonlawyers who could be said to "prepar[e] instruments that affect title to real estate" – including real estate agents, loan officers, and closing agents – who have not been treated as violating this law. So what constitutes an activity that cannot be legally performed by a nonlawyer isn't as clear or as wide-ranging as this statute makes it sound.

The legal limitations on what nonlawyers can do have to be taken seriously because UPL is a criminal offense under Maryland law. B.O.P.L § 10-601(a) states that "[e]xcept as otherwise provided by law, a person may not practice, attempt to practice, or offer to practice law in the State unless admitted to the Bar." And § 10-606(a)(3) provides that "a person who violates § 10-601 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both." Criminal prosecutions of people for violating this law are, thankfully, very rare. But that doesn't mean that it shouldn't be taken seriously. Accordingly, navigators will be given a lot of guidance in this lesson on avoiding UPL.

It should be added that although nonlawyers aren't allowed to represent people in court, parties to cases are still allowed to represent themselves in court. According to § 10-102, "[t]his title does not limit the right of ... an individual to appear on the individual's own behalf before a court or other unit of the State government" That means that persons who can't afford or otherwise obtain a lawyer, or who don't want a lawyer, are allowed to represent themselves.

Those who represent themselves are often referred to as "self-represented." For example, the Maryland courts have a work group on "self-represented" litigants as well as guides and programs for the "self-represented." It's not clear why people without attorneys are referred to as self-represented rather than unrepresented. It seems a little like calling an orphan "self-parented." When tenants have to take care of their own legal matters, despite having little familiarity with the law and with court processes, it seems fairer to say that they are going to court unrepresented.

B. The context for the law against UPL

Laws against the unauthorized practice of law are actually somewhat controversial. Many other countries, including Great Britain, which probably has the legal system most like our own, don't even have them. And at times, certain federal agencies, such as the Federal Trade Commission (FTC) and Department of Justice (DOJ), have criticized the American Bar Association (ABA) and the States for adopting highly restrictive laws against UPL.

For example, not that long ago, the FTC and DOJ sent a letter to the ABA criticizing a proposed model definition of the practice of law that was under consideration by the ABA as a guide to the States. According to the federal agencies, the proposed model definition was contrary to federal antitrust policy. That letter said:

[W]e urge the ABA not to adopt the current proposed Definition, which, in our judgment, is overbroad and could restrain competition between lawyers and nonlawyers to provide similar services to American consumers. If adopted by state governments, the proposed Definition is likely to raise costs for consumers and limit their competitive choices. There is no evidence before the ABA of which we are aware that consumers are hurt by this competition and there is substantial evidence that they benefit from it. Consequently, we recommend that the proposed Model Definition be substantially narrowed or rejected.

Letter to Task Force on the Model Definition of the Practice of Law (December 20, 2002).

The federal agencies are suggesting here that when nonlawyers are greatly limited from doing anything to assist others with legal matters, that gives lawyers a monopoly, which can harm consumers by limiting competition and driving up the price of legal services. As the federal agencies indicate, there has been research done on services provided by nonlawyers that has found that in some situations nonlawyers can provide high-quality legal services and do so at a lower cost than lawyers. The federal agencies weren't suggesting that there should be no rules on what nonlawyers

can do, but pointing out that consumers could be harmed if there were too many limitations.

The ABA ended up abandoning the plan for its model definition, but most States, including Maryland, have definitions that are similarly broad. In fact, the FTC and DOJ have also sent letters of this kind to many State bars (though not including Maryland). The federal agencies haven't pursued any legal action against the States for antitrust violations for overly broad definition of UPL, and it's not clear that the States are in fact violating any antitrust laws. Because the law of every State is different and each State licenses its own lawyers, it's not clear that there is any interstate commerce going on that the federal government would be constitutionally entitled to regulate. But the point is that the federal government has recognized that the monopoly lawyers have on legal services is anticompetitive and may hurt consumers in some cases.

It is also possible that preventing nonlawyers from providing some forms of legal assistance may violate the U.S. Constitution. Nonlawyers are not allowed to give legal advice, but legal advice is the kind of speech – involving the expression of ideas, opinions, and advocacy – that has generally been entitled to First Amendment protection under the Free Speech Clause. Thus, it is not surprising that some commentators have suggested that UPL restrictions interfere with free speech rights of nonlawyers and those who would hear such speech.¹

The First Amendment also protects the right of persons to petition their government for a redress of grievances. In addition, the Due Process Clause of the Fifth and Fourteenth Amendments also entitles people to fair treatment in court. Where people cannot afford to hire a lawyer and cannot find a free one to take their cases, it could be said that the constitutional rights of petition and due process are being interfered with by laws that prevent people from getting any assistance from trained nonlawyers who could help them pursue their legal rights.

The Supreme Court has never directly addressed the issue whether laws restricting nonlawyers from providing legal assistance are unconstitutional. Justices of the Court have occasionally raised questions, however. In *Hackin v. Arizona*, 389 U.S. 143 (1967) (*per curiam*), one of the Justices, Justice Douglas, dissented from the Court's decision not to accept that case, involving a nonlawyer's legal assistance, for review. Douglas's dissent made an argument in favor of letting nonlawyers provide more services:

Certainly the States have a strong interest in preventing legally untrained shysters who pose as attorneys from milking the public for pecuniary gain. But it is arguable whether this policy should support a prohibition against charitable efforts of nonlawyers to help the poor. It may well be that until the goal of free *legal* assistance to the indigent in all areas of the law is achieved, the poor are not harmed by well-meaning, charitable assistance of laymen. On the contrary, for the majority of

¹ See, e.g., Michele Cotton, *Improving Access to Justice by Enforcing the Free Speech Clause*, 83 Brooklyn Law Review ___ (to be published December 2017).

indigents, who are not so fortunate to be served by neighborhood legal offices, lay assistance may be the only hope for achieving equal justice at this time.

Id. at 151-52 (citations omitted).

When Justice Douglas wrote his dissent, there were actually many more lawyers available to assist low-income people than there are today. The funding for such lawyers is down considerably, and many legal services offices engage in a kind of triage in which only the most serious cases are assigned for representation by an attorney. Free lawyers have to be rationed, and it is more true than ever that “lay assistance may be the only hope for achieving equal justice at this time.”

There are current efforts in Maryland and many other States seeking to increase the funding available to pay for attorneys in civil cases where people cannot afford them, and such efforts have been going on for many years, mostly without success. This pilot project is an attempt to find another way to provide quality service to the unrepresented, while costing very little. It may be an approach which can provide meaningful assistance until and unless the day comes when there are free attorneys for everyone who can’t afford one.

While it’s important to avoid violating the laws against UPL while providing such meaningful assistance, it’s also worth knowing that the laws against UPL are themselves subject to criticism and may need reform to improve access to justice.

C. What navigators can and can’t do, given UPL restrictions

1. Don’t give legal advice; do give legal information

Maryland law prohibits nonlawyers – including navigators – from giving “legal advice.” Legal advice involves giving a person an opinion about what that person should do based on the law that applies to their situation² or proposing ways that a person might use the law to obtain their objectives.³ So you shouldn’t tell a tenant what you think about how the law applies to their

² See, e.g., *Franko v. Mitchell*, 158 Ariz. 391, 406 (1988) (Grant, J., concurring in part, dissenting in part) (“Legal advice is often defined as giving an opinion as to the law applicable to the subject matter,” citing *Togstad v. Vesely, Otto, Miller & Keefe*, 291 N.W.2d 686, 692-93 (Minn. 1980)); *In re McDaniel*, 232 B.R. 674, 679 (Bankr. N.D. Tex. 1999) (legal advice occurs where the nonlawyer “applies the statutes, rules, and information from [legal] publications to the facts of the particular case”); *Kennedy v. Bar Ass’n.*, 316 Md. 646, 663 (1989) (“advising clients by applying legal principles to the client’s problem is practicing law”); *Schlicksup v. Caterpillar, Inc.*, 2011 U.S. Dist. LEXIS 102099, 17 (C.D. Ill., Peoria 2011) (“legal advice ... include[s] advice regarding compliance with the law”).

³ See, e.g., *Meza-Sayas v. Conway*, 2007 U.S. Dist. LEXIS 66772, 19 (D.C. Idaho 2007) (“Legal advice includes the choice of action to pursue [and] the court in which to pursue it”); W. Va. LR Bk. P. (N.D.) LR PL P 9 (2011) (legal advice includes “recommending a course of action”); 80 Op. Atty. Gen. Md. 138 (1995) (nonlawyers “may not help [persons] decide, based upon the [persons’] particular circumstances, whether to invoke any of their rights or pursue any of their potential remedies”); Virginia Guidelines on Mediation and the Unauthorized Practice of Law, p. 13 (Legal advice “directs, counsels, urges, or recommends a course of action by a disputant or disputants as a means of resolving a legal issue”).

particular situation or make recommendations about what they should do to best pursue their legal rights.

On the other hand, you can give a tenant information about the law, define legal terms, explain legal procedures, and answer general questions involving the law. One way to think about it is that whenever you provide legal information to the tenant, it should be information that is generally applicable, not information that is tailored to fit the tenant's facts. And you should always frame that information in terms of what tenants *can try to do*, not to what they *should do*.

You can share with tenants anything about the law that you learn in this training or that you learn through your experience as a navigator, but what you say needs to be kept general rather than specific to the person's situation. If a person asks you what a "rent abatement" is, you can tell them. If a person asks you if judges ever give tenants rent abatements, you can answer that question as well. But if they ask you whether they are entitled to a rent abatement or whether you think they should ask for a rent abatement, then you have to say that you can't answer that kind of question.

It's also okay to give nonlegal advice that's generally helpful, such as "bring all your paperwork to court" or "make sure to be home for the inspection." That's advice, but it's not legal advice, because you're not using the law as the basis for your suggestions to the person.

2. Don't represent people; do give them assistance in representing themselves

Maryland law also prohibits nonlawyers from representing others in legal matters. That means that you can't speak on a tenant's behalf in the courtroom or in hallway negotiations with a party or a party's representative, or do any drafting of legal agreements or settlements.

When you give tenants information about the law, it helps them draw their own conclusions about what they want to try to achieve through their legal cases, and you are encouraged to help them achieve their objectives as they have formulated them. In the courtroom and hallway negotiations, you will generally be quiet, and only speak to the tenant to remind them of something they said was important or needed to be covered, if it appears that they have forgotten. And when it comes to legal paperwork, you will assist the tenant in filling out forms but you won't make any particular suggestions about what to fill in. Any assistance you provide with the paperwork should be guided by the directions of the tenant, based on the information you have given them.

3. More details on what navigators can and can't do

This page and the next have tables indicating some of the things that navigators can and can't do, along with footnotes with supporting legal sources. The Navigator Protocol (Lesson V) will provide additional information about how to implement these do's and don't's, but these are the specific rules that underlie the instructions in the protocol.

What court navigators can do:	What court navigators can't do:
The navigator can give the tenant prepared materials explaining the remedies available under law. ⁴	The navigator can't offer conclusions about whether any particular remedy is relevant to the tenant's court case or make any recommendations about what the tenant should do to win. ⁵
The navigator can answer basic questions the tenant has about the available remedies. ⁶	The navigator can't answer questions that require the application of the law to the facts, where that application involves any level of complexity. ⁷
The navigator can offer the tenant explanations of unfamiliar legal terms. ⁸	
The navigator can answer basic questions about filling out court-supplied forms. ⁹	The navigator can't make any specific recommendations about what the tenant should put on the form, beyond pointing out where the things go that the tenant wants to include. ¹⁰

⁴ See 80 Op. Atty Gen. Md. 138, 142 (1995), which indicates that “ the simple act of providing *information* about legal rights, as opposed to offering advice about such rights and what to do about them, is not unauthorized.” For example, “[l]ay advocates may provide information to [persons] about their potential legal rights and remedies.” *Id.* See also 79 Op. Atty Gen. Md. 174 (1994) (A social worker may inform a birth parent about his or her statutory right to revoke consent to adoption).

⁵ The nonlawyer should not help persons decide, based on their particular circumstances, whether to invoke any of their rights or pursue any of their potential remedies, as that would be improperly suggesting a “course of conduct.” 80 Op. Atty Gen. at 142.

⁶ Any answers navigators give to questions from tenants must be based on “the most elementary knowledge of law.” *Lukas v. Bar Association of Montgomery County*, 35 Md. App. 442, 448 (1977), *cert. denied*, 250 Md. 733 (1977) (citations omitted). It is not the practice of law just because the navigator is working on matters that involve the law; the practice of law involves “much more than merely working with legally-related matters” *Id.* (citations omitted).

⁷ Any answers navigators give to questions from tenants must avoid “applying legal principles to problems of any complexity.” *Id.* The Court of Appeals has stated that the “practice of law includes utilizing legal education, training, and experience to apply the special analysis of the profession to the client’s problem.” *Attorney Grievance Commission v. Shaw*, 354 Md. 636, 649 (1999). Rather, the “focus of the inquiry is, in fact, whether the activity in question required legal knowledge and skill in order to apply legal principles and precedent.” *Id.* (citations omitted).

⁸ See 80 Op. Atty Gen. Md. at 143, which indicates that nonlawyers may define unfamiliar terms on legal forms.

⁹ See 80 Op. Atty Gen. Md. at 139, which states that a lay advocate may assist pro se litigants in “preparing a legal pleading or other legal document by defining unfamiliar terms on a form [and] explaining where on a form the victim is to provide certain information” See also *Lukas v. Bar Association of Montgomery County*, 35 Md. App. 442, 448, 371 A.2d 669, *cert. denied*, 280 Md. 733 (1977), which indicates that the performance of “mechanical functions,” such as the completion of forms or clerical work, does not constitute the practice of law. *Id.*

¹⁰ *Id.*

The navigator can give the tenant an outline of court processes, ¹¹ explaining how they generally run, ¹² and can answer any questions that involve ordinary knowledge of how the court works. ¹³	The navigator can't advise the tenant how to handle the presentation of the particulars of their case in court. ¹⁴
The navigator can accompany the tenant in the courtroom and during hallway negotiations. ¹⁵	The navigator may not advocate on the tenant's behalf with the other party. ¹⁶
The navigator may assist the tenant with such nonlegal activities as budgeting and ordinary problem-solving, and with organizing the paperwork that may be relevant to the case from the perspective of the tenant. ¹⁷	

Lesson II Exercise

Consider the following scenarios and which answer you would choose. Then look at the answers that follow to see how you did and what is the best answer and why.

1. You are helping the tenant fill out the court forms for beginning the rent escrow case. One of the items on the form, that the tenant can ask the judge for, is a reduction in rent, whether paid or owed, going back to the time that the landlord was first told about the problems in need of repair. The form asks for the “total amount” that the tenant is seeking to be filled in. The tenant asks you what “total amount” means. What do you say?

¹¹ Such an explanation would be permitted because it involves only “the most elementary knowledge of law.” *Lukas v. Bar Association of Montgomery County*, 35 Md. App. 442, 448 (1977), *cert. denied*, 250 Md. 733 (1977) (citations omitted).

¹² See 80 Op. Atty Gen. Md. at 143, which indicates that nonlawyers may give persons a “general orientation or overviews about the kind of legal proceeding involved.”

¹³ See 80 Op. Atty Gen. Md. at 138, which states that a nonlawyer may provide persons with “basic information about the manner in which judicial proceedings are conducted.” In addition, “Lay advocates may inform [persons] about purely nonlegal, basic matters such as appropriate attire, where to sit, and so forth.” *Id.* at 143.

¹⁴ See 80 Op. Atty Gen. Md. at 143, which states that nonlawyers cannot provide particular or individualized information, such as how to present a case, how to call witnesses, how to cross-examine witnesses, and the like.

¹⁵ See 80 Op. Atty Gen. Md. at 143, which states: “Lay advocates may sit at trial table or stand by the [litigant] in the courtroom, subject to the discretion of the trial judge, provided they do not engage in any activities otherwise prohibited.”

¹⁶ See 80 Op. Atty Gen. Md., which indicates that nonlawyers are prohibited from holding themselves out as representatives at trial, *id.* at 143, or engaging in advocacy on behalf of particular individuals, *id.* at 139.

¹⁷ See *Lukas v. Bar Association of Montgomery County*, 35 Md. App. 442, 448, 371 A.2d 669, *cert. denied*, 280 Md. 733 (1977), which indicates that the performance of “mechanical functions” that are related to legal matters does not constitute the practice of law. *Id.*

- A. You say the “total amount” is the amount of all the reductions in rent, added together, that the tenant is asking for.
 - B. You say that you can’t answer that question (because it would be UPL).
 - C. You say that the total amount should be calculated by adding up the damages due for violation of the warranty of habitability plus any rent abatement due based on the continuing conditions.
2. The landlord made the repairs before the first hearing in the rent escrow case. Before going into that hearing, the tenant asks you if she will still be able to get a refund of the rent she paid for the previous two months. What do you say?
- A. You tell her that the case will probably be dismissed because the landlord has already made the repairs.
 - B. You tell her that that is one of the kinds of the relief the judge can give, but that you can’t say whether the judge would order such relief in this case.
 - C. You tell her that she will need some documentation to prove when the landlord was first notified about the conditions.
3. The judge orders the tenant to deposit \$1500 – two month’s rent – into a rent escrow account by Friday. The tenant tells you that she can’t decide whether to deposit that money or to use it as a security deposit and first month’s rent at a better apartment. What do you say to her?
- A. You tell her that if you were she, you would save it for the better apartment.
 - B. You tell her that it can be difficult to find an apartment with no housing code violations, and that she might be better off sticking with the rent escrow case.
 - C. You tell her that the decision is up to her, but you’re available to help her if she decides she wants to use this case try to make this apartment livable.
4. You’re about to go with a tenant into the first hearing in a rent escrow case. You stand out in the hallway and go over the documentation the tenant has brought with her. She has photos, bills, receipts, and other documents. The tenant asks you to help her organize them so that she can find them easily during the hearing. What do you say?
- A. You tell her that you can’t help her with that, because it would be the unauthorized practice of law.
 - B. You tell her that you can help her with that, based on what she thinks would enable her to get easier access to the documents while in court, but can’t tell her how to present these items to the judge.
 - C. You tell her that she should be sure to tell the judge about the bills and receipts, but that she doesn’t have to worry about the photos because the housing inspection will have photos of the conditions.
5. The tenant tells you that she is interested in asking for a rent abatement. She describes the

conditions in her housing to you, which sound pretty bad, and asks you what would be an appropriate amount for her to request from the judge. What do you say?

- A. You tell her that she is the one who has to decide how much to request.
- B. You tell her she should ask the judge how much money would be appropriate.
- C. You tell her that she should ask for the entire rental amount to be abated until the landlord has made the repairs.

The answers are on the next page.

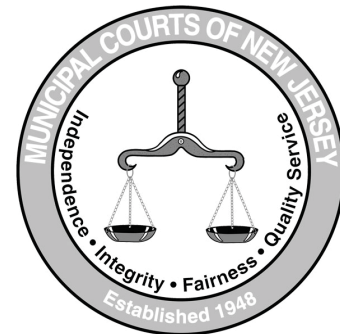
Lesson II Exercise answers:

1. The best answer is A. It's fine here to say what "total amount" means, because it's not based on legal analysis but only on ordinary knowledge of what the words "total amount" would mean in context. In other words, it doesn't take legal knowledge or skill to answer that question. C is not a good answer because it is technical in nature and does imply the application of legal analysis.
2. The best answer is B. A and C are not good answers because they are UPL, and also incorrect. Answer A is UPL because you are making a prediction, using legal knowledge. It's the probably wrong under the law, but it's still purporting to apply the law to this particular situation. And C is advising the tenant of how to achieve her objective in court, which is UPL. And documentation isn't actually required.
3. The best answer is C. Neither A or B is UPL, as they offer common sense advice. You wouldn't be breaking any laws against UPL if you made these recommendations. But you aren't doing what is expected of a navigator, which is to follow the guidance of the tenant, rather than directing the tenant.
- 4 The best answer is B. There's nothing wrong with good, old-fashioned organizing of documents, based on ordinary principles of how to find stuff (maybe labeling things, using paperclips and rubber bands, and even file folders). But you can't tell the tenant how best to present these pieces of documentation in court. You can tell her that it can be helpful to have these forms of documentation in case the judge asks for them – that's common sense. Answer C isn't a good answer because although it is true that the housing inspection has photos, you can't and shouldn't draw a legal conclusion about whether those photos are sufficient evidence.
5. The best answer is A. When the tenant asks questions of this kind, you should put the responsibility back on the tenant. Answer B isn't a good answer, because the judge won't tell the tenant what the tenant should seek. The job of the judge is to be an impartial arbiter, not advisor. And C isn't a good answer because it is legal advice, based on applying the law to the tenant's situation and making the determination that the tenant has a really strong case for such a large amount of money.

Now take the quiz to see how you're doing.



WELCOME TO THE NEW JERSEY COURTS



WE WILL BE HAPPY TO HELP YOU IF WE CAN. HOWEVER, WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS, SINCE WE WANT TO BE FAIR TO EVERYONE IN A CASE.

THIS IS A LIST OF SOME THINGS THE COURT STAFF CAN AND CANNOT DO FOR YOU. PLEASE READ IT CAREFULLY BEFORE ASKING THE COURT STAFF FOR HELP.

WE CAN explain and answer questions about how the court works.

WE CAN tell you what the requirements are to have your case considered by the court.

WE CAN give you some information from your case file.

WE CAN provide you with samples of court forms that are available.

WE CAN provide you with guidance on how to fill out forms.

WE CAN usually answer questions about court deadlines.



WE CANNOT give you legal advice. Only your lawyer can give you legal advice.

WE CANNOT tell you whether or not you should bring your case to court.

WE CANNOT give you an opinion about what will happen if you bring your case to court.

WE CANNOT recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.

WE CANNOT talk to the judge for you about what will happen in your case.

WE CANNOT let you talk to the judge outside of court.

WE CANNOT change an order issued by a judge.

WE LOOK FORWARD TO HELPING YOU IN ACCORDANCE WITH THESE GUIDELINES.

MISSION STATEMENT

We are an independent branch of government constitutionally entrusted with the fair and just resolution of disputes in order to preserve the rule of law and to protect the rights and liberties guaranteed by the Constitution and laws of the United States and this State.

Stuart Rabner
Chief Justice

New Jersey Courts
Independence • Integrity • Fairness • Quality Service

Glenn A. Grant, J.A.D.
Acting Administrative Director

**ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS**

Pursuant to the authority vested in me, and upon consultation with and approval by the Chief Judge and the Presiding Justices of the Appellate Division, First and Second Judicial Departments, I hereby adopt, effective February 11, 2014, the following rules relating to a pilot program for provision of pro bono non-legal services to unrepresented litigants in consumer credit, housing, and others matters where such services are urgently needed.

1. The Court Navigators Program

There is hereby established a pilot "Court Navigators Program" of the Unified Court System, in the New York City Civil Court and in such other courts and parts as shall be designated by the Chief Administrator of the Courts, for the purpose of providing essential non- legal services, without cost, to unrepresented litigants by qualified non-lawyers ("Navigators"). The program initially shall be established in the following locations:

1. Civil Court, Bronx County (consumer credit matters); and
2. Civil Court, Kings County (Housing Part).

2. Standards, Qualifications, and Assignment of Court Navigators

A. The Chief Administrator of the Courts shall establish minimum qualifications, education, and training standards for Court Navigators. These shall include an educational and field training course, pursuant to a curriculum approved by the Chief Administrator or her designee. The Chief Administrator shall maintain a list of qualified Navigators eligible for appointment pursuant to this program.

B. Court Navigators shall be assigned by, and act under the supervision of, not-for-profit service providers approved for this purpose by the Chief Administrator. For purposes of this pilot program, approved providers include the following:

1. The New York State Access to Justice Program (A2J)
2. University Settlement
3. Housing Court Answers

3. Duties and Limitations of Court Navigators

A. Upon the assignment of a Court Navigator, the Navigator may, in conformance with standards and guidelines approved by the Chief Administrator of the Courts or her designee:

(1) inform the unrepresented party about, and assist in, the completion of court-designed and court-approved "do-it-yourself" form documents, and the use of Law Help to obtain legal information or to locate an attorney;

(2) assist the unrepresented party in the gathering and organization of documents relating to the case;

(3) inform the unrepresented party about, and assist in, the scheduling of court proceedings;

(4) accompany the unrepresented party to court appearances and, if directed by the court, answer factual questions posed by the court;

(5) inform the unrepresented party about, and assist in, obtaining available court services (such as interpreter services); and

(6) provide such other non-legal information and perform such other non-legal services as the court may direct.

B. In the performance of these services, Court Navigators may not:

(1) provide legal advice, legal counseling, or (unless in a manner approved by the Chief Administrator or her designee) legal information to the unrepresented litigant;

(2) draft, execute, serve, or file with the court any documents on behalf of the unrepresented litigant (other than the provision of assistance in completing court-approved "do-it-yourself" documents as described above);

(3) hold themselves out as representing, speaking for, or advocating on behalf of a litigant, or act in any manner as to convey the impression that they are legal practitioners or are associated with a law office;

(4) address, or conduct negotiations with, opposing counsel, unless at the court's direction;

(5) address the court on behalf of the unrepresented litigant, unless to provide factual information at the court's direction; or

(6) perform any service that constitutes the practice of law.

C. Court Navigators shall receive neither direct nor indirect compensation from the unrepresented parties to whom they provide services.

D. Court Navigators shall follow the court's directives at all times.



Chief Administrative Judge of the Courts

Information vs. Legal Advice

The HC provides both information and legal advice to our visitors. Only an attorney can give legal advice. Non-attorney volunteers can provide information as detailed below.

Front desk: Only provides information (even attorneys). This helps set clear expectations and avoids potential conflicts.

Back tables: Can be used by students providing in depth information to visitors and attorneys giving legal advice. For each, we give appropriate disclaimers as listed in interview guides. If legal issues arise while providing information, you can get an attorney or schedule them for a longer legal advice consultation.

Legal information vs Legal Advice

How you frame an issue often determines whether it is legal information or legal advice.

Legal Information	Legal Advice
Generally available to all	Tailored to the needs of a specific person
Explain and answer questions about how the court works	Recommend whether a client should file a case or what actions they should take
Provide court forms and assist in completing the form without telling what specific words to write on the form, checking forms for completeness	Tell clients what words to use in court filings or what words to say in court
Providing forms that a person can choose to use	Selecting and telling clients to use specific forms
Give general information on court rules, procedures, practices, terms and laws	Interpret the law or apply the law to the specifics of a person's case
Provide information from public records, such as the clerk's website	Give an opinion about the likely outcome in court when filing a suit, motion or appeal
Give general information about court and legal deadlines	Calculating deadlines for a specific case
Facts about the law and the legal process	Advice about the course of action a client should take to further his or her own best interests
Staff should answer questions that call for factual information – questions that start with “who,” “what,” “when,” “where,” or “how.”	Staff should not answer questions that call for an opinion about what a litigant should do – questions that contain the words “should” or “whether.”

<u>Educating</u> the litigant or potential litigant	<u>Guiding or directing</u> the litigant or potential litigant
Giving the same assistance, at the same level of service, to both sides of all types of cases served.	Advocating for one side in a case.

Tips

- “I cannot tell you what do. I can give you information about what the law says and the court process.”
- Use phrases like, “Generally speaking” and the 3rd person
- Avoid “You should,” “You can” and the 2nd person
- Use hypothetical examples to illustrate the point
- Offer to schedule an appointment with a lawyer for legal advice if needed.
- Imagine the other litigant can hear you. If you are giving neutral information, the other side should be able to hear it.

Legal Information vs. Legal Advice

Guidelines and Instructions for Clerks and Court Personnel
Who Work with Self-Represented Litigants in Texas
State Courts

Edited for use in Texas by: Texas Office of Court
Administration Texas Access to Justice
Commission Texas Access to Justice Foundation
Texas Legal Services Center
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Introduction

Each year thousands of people represent themselves in Texas courts. It is crucial that clerks and court personnel understand how to help the self-represented without giving legal advice. This manual will help explain the difference between legal information and legal advice.

You are the face and voice of justice in Texas. How you respond to questions about the court system affects how people feel about justice, as well as their access to justice. If someone does not understand how to use the court system, and you do not provide available and needed information, that person may be denied access to the courts and to justice.

This manual is specifically intended for the use of clerks and court personnel who provide telephone and counter assistance. It is recommended that you keep the manual in a place where it is easily accessible. Of course, it cannot anticipate all the possible questions that self-represented parties might ask. If you are unsure if your response to a question would constitute giving legal advice, refer to this manual. You can also check with your supervisor.

The manual also contains a one-page list of some things clerks and court personnel can and cannot do (*see page 17*). This list is designed to be used as a handout or a sign posted at the clerk's counter or public window so that people can read and understand the guidelines that you are required to follow.

The law is complicated and confusing. Encourage people to talk to a lawyer about their situation. The *Resources and Referral Information* section of this manual describes a variety of ways people can get help.

Roles and Responsibilities of Clerks and Court Personnel

PROVIDE ACCESS TO THE COURTS

- One of the basic principles of the American justice system is that the doors of our courthouses are open to everyone.
- Most members of the public, however, are not familiar with courts or court procedures and require some level of assistance.
- Access to justice is, in effect, denied if members of the public do not know how to use the court system, and the courts do not assist them in some meaningful way.
- The court is obligated to explain court processes and procedures, to provide quality service, and to provide accurate information to all members of the public.
- An understanding of what information can be provided to the public will significantly affect access to the courts and the administration of justice.

PROVIDE SERVICE WITH ACCURATE INFORMATION

- Accessibility to the judicial system is affected by the accuracy of information provided by the court to members of the public, along with the manner in which it is presented.
- Clerks and court personnel are responsible for giving court users the service they need and deserve by providing accurate information in a competent, cooperative, and timely manner.
- The public's first and only contact with the judicial system may be with clerks and court personnel, whose responses have an impact on how people view their court experience.
- The court should treat all court users fairly and equally: attorneys, defendants, self-represented litigants, and others. In other words, clerks and court personnel should feel comfortable providing the same information to self-represented litigants that they provide on a routine basis to attorneys. All members of the public are entitled to the same information. Providing information to a lawyer that would not be provided to a self-represented litigant is not equal. Similarly, providing information to a self-represented litigant that would not be provided to a lawyer is not equal.
- Clerks and court staff should learn the rules about *ex parte* (one-sided) communication with the judge, and should not let members of the public use them to circumvent that principle.
- Effective service may reduce the number of times court users must come to the courthouse, and thus reduce stress on the court system.
- Provide accurate information because even seemingly small mistakes can affect people's lives or the outcome of court cases. It is better to be honest and say "I don't know" than to give incorrect information.

Why Clerks and Court Personnel Must Not Give Legal Advice, But Should Provide *Legal Information*

CLERKS AND COURT PERSONNEL MUST REMAIN NEUTRAL

- Remain neutral and do not promote or recommend a particular course of action to court users.
- Although you may have processed many similar types of cases, you do not know what is in a court user's best interest. Only they or their attorneys can make that determination.

CLERKS AND COURT PERSONNEL MUST REMAIN IMPARTIAL

- Impartiality is similar to neutrality, but focuses on equal treatment of court users.
- Court knowledge must be shared fairly and equally.
- Never give advice or information that favors one side or the other.
- Do not disclose confidential information or become involved in or facilitate an *ex parte* communication.

CLERKS AND COURT PERSONNEL MUST NOT ENGAGE IN THE UNAUTHORIZED PRACTICE OF LAW

- Only attorneys licensed to practice by the Supreme Court may give legal advice.
- Do not engage in the unauthorized practice of law by providing legal advice.
- Even court personnel who themselves are licensed attorneys may not give legal advice to court users because doing so would violate the principles of neutrality and impartiality.

The unauthorized practice of law statute, [Section 81.101 of the Texas Government Code](#), states:

- (a) In this chapter the "practice of law" means the preparation of a pleading or other document incident to an action or special proceeding or the management of the action or proceeding on behalf of a client before a judge in court as well as a service rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge, such as preparing a will, contract, or other instrument, the legal effect of which under the facts and conclusions involved must be carefully determined.
- (b) The definition in this section is not exclusive and does not deprive the judicial branch of the power and authority under both this chapter and the adjudicated cases to determine whether other services and acts not enumerated may constitute the practice of law.
- (c) In this chapter, the "practice of law" does not include the design, creation, publication, distribution, display, or sale by means of an Internet web site, of written materials,

books, forms, computer software, or similar products if the products clearly and conspicuously state that the products are not a substitute for the advice of an attorney. This subsection does not authorize the use of the products or similar media in violation of Chapter 83 and does not affect the applicability or enforceability of that chapter.

The above statute does not provide an exhaustive list of what constitutes the practice of law. The Supreme Court of Texas has held that *the courts* ultimately decide what is and is not the practice of law.

What is Legal Advice?

Court users are asking for legal advice when they *ask whether or not they should* proceed in a certain fashion. ***Telling a member of the public what to do rather than how to do it may be giving legal advice.***

Legal advice is a written or oral statement that:

- Interprets some aspect of the law, court rules, or court procedures;
- Recommends a specific course of conduct a person should take in an actual or potential legal proceeding; or
- Applies the law to the individual person's specific factual circumstances.

What is Legal Information?

Clerks and court personnel may:

- Provide public information contained in dockets, calendars, case files, indexes, and other reports.
- Recite common, routinely-employed court rules, court procedures, administrative practices, and local rules, and explain generally how the court and judges function.
- Refer self-represented litigants to a law library or the court's website for statutes, court rules, or forms.
- Explain the meaning of terms and documents used in the court process.
- Answer questions concerning deadlines or due dates (without calculating due dates).
- Identify and refer self-represented litigants to court forms.

Clerks and court personnel may NOT:

- Recommend whether to file a certain pleading.
- Recommend wording or content for a pleading.
- Recommend specific people against whom to file pleadings.
- Recommend specific claims or arguments to assert at trial.
- Recommend what type of damages to seek or from whom to seek them.
- Recommend techniques for presenting evidence in pleadings or at trial.
- Recommend which objections to raise or which motions to file.
- Recommend whether a party should ask for a continuance.
- Recommend whether or not parties should try to settle their dispute prior to trial.
- Interpret applications of statutes.
- Perform legal research for a party by researching case law, statutes, opinions, etc.
- Predict the outcome of a case.

What is *Ex Parte* Communication?

Black's Law Dictionary defines *ex parte* as "on one side only; by or for one party; done for one party only."

Ex parte refers to situations in which only one party appears before a judge or communicates with a judge.

With few exceptions, the court rules require that all documents filed with the court must be given to all other parties in the case so that the other parties have an opportunity to respond. Thus, it is improper to give information to the judge unless that information has been provided to the other parties in the case.

If a party submits a written *ex parte* communication for a judge, ask the judge what the judge would like to do with the communication. The judge will say either to send a copy to all the parties before the judge reviews it or to send it back to the individual who submitted the document. Check for any other local policies on this issue.

If a party asks to talk to a judge, suggest that they write down what they want to say and file it with the court. This written communication should:

- Include a proper heading, including the case number.
- Be dated and signed, with the name printed under signature.
- Include the party's address and telephone number over the heading.

- Be copied to the opposing party or counsel following Texas Rules of Civil Procedure.

The original should be submitted to the clerk and the party should keep a copy for their records.

If the party has an emergency situation and there is no time to submit a written request, communicate with the judge *if* allowed by local rules. The party should be warned that the request may not be granted.

Quality Service: Strategies for Answering Difficult Questions

It may not always be clear that it is appropriate to answer a member of the public's question. However, there are several things that can be done to assist court users and make it easier to identify whether the question is asking for legal information or legal advice.

LISTEN CLOSELY AND ASK QUESTIONS

- Let members of the public ask their questions and listen carefully to what they are asking.
- Be an active listener and respond reflectively. If necessary, repeat or rephrase the question to state what you think they are asking.
- Take the time to clarify what court users need. If someone asks a question that is not clear, ask follow-up questions to clarify what they mean.
- Ask court users if they have completely read any paperwork they may have.

BE PATIENT

- Think how much the court user will appreciate someone taking the time to answer questions and explain an unfamiliar process.
- Coming to court can be stressful, confusing, and intimidating; so take the time to welcome and greet court users.
- The same questions may have been asked many times before, but remember that this is the first time for this particular court user.
- Remain calm even when the court user is not. Attitude is key. Some people may just need to vent. Take it professionally, not personally.

EXPLAIN ANSWERS and GIVE REASONS

- Providing the reasons why certain information cannot be given helps minimize people's frustration and increases their understanding of the court system. If a question cannot be answered, explain how important it is that clerks and court personnel remain **neutral and impartial**. Always be clear and concise when providing information. Ask the person how they would feel if the clerk or court personnel gave legal advice to the other side.

- The phrase “I cannot give legal advice” should never be used as an excuse not to provide service. Politely state that clerks and court personnel cannot explain or interpret the law or say how it would apply to a case because that would be giving legal advice. Also, explain that clerks and court personnel do not have legal training and if the clerk tries to give information about which they are not completely informed, it might jeopardize the outcome of the case for the party.
- If a question cannot be answered, try to give a good referral such as to a local lawyer referral service, legal clinic, the court’s website, or go to www.TexasLawHelp.org. Remember: **do not** recommend specific attorneys; remain neutral and impartial at all times.

Procedural Explanations
vs.
Procedural Recommendations

Provide procedural information and explanations on how to accomplish various actions within the court system. Explaining various procedures increases the public’s understanding of the court system and provides greater access to the courts.

Do not make any recommendation that would indicate a direct advantage or disadvantage of a particular procedure. It is not appropriate to tell court users what is the best course of action for them to take, nor is it appropriate to give opinions about the probable outcome of a case.

CAN PROVIDE Procedural Explanations	CANNOT PROVIDE Procedural Recommendations
Question: Can you tell me how to file a small claims action?	Question: Can you tell me whether it would be better to file a small claims action or a civil action?
Response: Yes. You need to fill out a sworn small claims statement and file it with the clerk’s office. When you file the affidavit, you will have to pay a filing fee. The clerk will issue you a case number and issue paperwork called the citation. Tell the clerk where the person you are suing may be found because the person must be served before the court can grant you any relief. The small claims form is on the court’s website.	Response: I cannot tell you which process would be best for your situation because I cannot give you legal advice. You may want to talk to an attorney about this issue to determine which process best fits your situation. You may also contact other legal resource organizations in your area, or you may conduct research at the local law library.

General Information about Court Operations

vs.

Confidential or Restricted Information about Court Operations

Answer questions about court policies and procedures if the information could not be inappropriately used to affect the status or outcome of a case. It is important not to disclose information that would allow one party or another to have an unfair advantage.

As a general rule, it is appropriate to provide information on how to do something, but it is not appropriate to answer the “how” question when it involves the disclosure of **confidential** or **restricted** information.

CAN PROVIDE General Information About Court Operations	CANNOT PROVIDE Confidential or Restricted Information About Court Operations
Question: When will my divorce go to court?	Question: Can you tell me when Judge Doe will be on vacation so I don't have to appear in front of him again?
Response: This time frame may depend on the type of service in the case. Hearings are only needed on contested cases and it will depend upon the status of the pleadings as to when it is set. There are general instructions and appropriate forms for uncontested divorce on the court's website, or you may wish to obtain legal help if your case is going to go to trial.	Response: I cannot give you personal information about the judge.

Explaining Legal Terms

vs.

Providing Legal Interpretations

Explain legal terms so that people will have access to the court and understand the court system. While it is appropriate to explain legal terms, it is not appropriate to provide legal interpretations.

CAN PROVIDE Legal Definition	CANNOT PROVIDE Legal Interpretation
<p>Question: What does “certificate of service” mean?</p>	<p>Question: My neighbors leave their kids at home all day without supervision. Isn't that child neglect?</p>
<p>Response: The rules require parties to file proof with the court that they complied with the requirement to serve other parties. This is called “certificate of service.” The rules require parties to give copies of any document filed with the court to all other parties in the case. The methods for service available to Texas litigants are outlined in the court rules and state statutes, in particular you may wish to look at Rule 21a of the Texas Rules of Civil Procedure. The rules are available on the court’s website.</p>	<p>Response: I am not an attorney or a judge and cannot make that legal determination. I can, however, refer you to Child Protective Services who may be able to help you. If you are concerned that the children are in any kind of danger, contact law enforcement.</p>

Tip: The Texas Rules of Civil Procedure are available at
<http://www.txcourts.gov/media/1055394/trcp-20150901.pdf>.

The Self Help section is available at
<http://www.txcourts.gov/programs-services/self-help.aspx>.

Providing Forms and Approved Instructions vs. Filling Out Forms

Another important way to facilitate access to the court is by providing forms and assistance where resources allow. It is important to know what forms and written instructions are available from the court and other agencies.

Often court users will not know what forms to request in order to bring their matters before the court. When this happens, clerks and court personnel should direct them to available resources for forms such as the court’s website, law libraries, and legal clinics.

Answer procedural questions about how to complete court papers and forms. For example, tell a court user whether a form needs to be notarized or what factual information the form is asking for,

but do not say what words to put on the forms. If someone asks what to say in a form, tell the person to use his or her own words. Due to time and resource constraints, suggest that people fill out as much of their form as possible before asking for assistance.

The Americans with Disabilities Act (ADA) requires reasonable accommodation to people with disabilities, which may include helping them fill out forms. Some legal clinics and legal service agencies will help people with disabilities fill out forms.

When helping someone fill out forms, write down exactly what the person dictates, word for word. Do not correct the person's grammar, and do not paraphrase or edit what the person says. This can be considered giving legal advice, and threatens the court's impartiality. Once the form is filled out, read it back to the party to confirm that what is written is correct. Write or stamp "dictated by court user, written verbatim by court staff," and your name or initials in the margin, and why the assistance was necessary.

<p style="text-align: center;">CAN PROVIDE</p> <p style="text-align: center;">Providing Forms and Approved Instructions</p>	<p style="text-align: center;">CANNOT PROVIDE</p> <p style="text-align: center;">Filling Out Forms</p>
<p>Question: I need to file for divorce and I have no idea where to begin. Is there some place I can go to find out how to get started?</p>	<p>Question: The self-help divorce petition says I should list as my separate property any gifts I received while we were married. My parents gave us money to make our house payments for several months. Should I list that money as my separate property?</p>
<p>Response: Sure. The Texas Law Help website has forms and instructions for uncontested divorces. Go to www.TexasLawHelp.org to find a full list of free forms. The court charges a fee to file your papers. This fee varies from county to county and may depend on whether children are involved.</p>	<p>Response: I cannot help you decide what information to enter. If you have questions about what information is appropriate to enter on the forms, you can ask an attorney or visit a legal clinic. Information about legal clinics is available on the court's website.</p>

Public Case Information
vs.
Confidential Case Information

Some documents or entire cases are confidential and the information cannot be disclosed. Ask a supervisor what records or cases are public and what are not.

Do not disclose the outcome of a matter submitted to a judge for decision until the outcome is part of the public record or the judge directs disclosure of the matter.

Do not speculate on the possible outcome of a matter submitted to a judge or a jury until the outcome is part of the public record. This also applies in cases when a matter has not yet been submitted to the court.

Generally, court case records are open to the public, and some records are made public by law. For example, search warrants and the affidavits that support them are public. Also, records in paternity suits are available for public inspection.

Some court case records may be sealed by the judge in civil cases under Rule 76a of the Texas Rules of Civil Procedure. The access to other kinds of court case records, such as records in mental health proceedings and juvenile case records, is limited by law. There are several other kinds of court case records that may be protected law. Be sure to check with your supervisor if there is a question about what records are public and what are not.

If court case records are confidential or protected by law, do not read them unless necessary to do your job. These records may contain highly personal information about parties, and it is inappropriate to read them unless required for your work.

CAN PROVIDE Public Case Information	CANNOT PROVIDE Confidential Case Information
<p>Question: My mother died four months ago, and I lost my paperwork regarding her probate case. Can you give me the case number, and can I get copies of the pertinent documents?</p>	<p>Question: I think there is a mental health case for my uncle in your court. His name is John Smith. Can you tell me anything about his case?</p>
<p>Response: Yes. I need to know her name. I'll check our records and give you the case number. Then, you can visit our courthouse and view the file.</p>	<p>Response: Mental health cases are private and therefore I cannot provide you with any information. This type of information can only be disclosed by court order.</p>

Tip: The Office of Court Administration publishes manuals for district clerks and county clerks which address requests for court case records. They are available at <http://www.txcourts.gov/publications-training/training-materials/manuals-bench-books/clerk-manuals-handbooks.aspx>

Options vs. Opinions

Provide information on the various procedural options that are available and what the differences are between the options. It is important to explain options because the person is often not aware of those options. People have better access to the courts when options are explained.

It is also important to advise people of **all** appropriate options. Providing only some of the options may indirectly influence a decision by limiting the person's choices.

Do not give an opinion about what specific remedies to seek or which option the person should use or otherwise advise someone on whether to bring the problem before the court. Remain neutral and do not take a position that will encourage or discourage a particular course of action.

CAN PROVIDE Options	CANNOT PROVIDE Opinions
<p>Question: What can I do if I cannot afford to pay the filing fee?</p>	<p>Question: My ex-husband hasn't paid the debts that he agreed to pay in our divorce settlement. Now he's filed for bankruptcy. The creditors are coming after me. This is ruining my credit. I don't live in Texas anymore. What can I do? He had an agreement and he's not following it. Can I be made responsible for this debt?</p>
<p>Response: You can request an <i>affidavit of inability to pay costs form</i>. This form allows you to open your case without paying the fee. The forms are available on the court's website and on Texas Law Help's website.</p>	<p>Response: I cannot advise you what you can do because I cannot give you legal advice. The bankruptcy filing further complicates this matter. You may want to consult an attorney. You can contact a local lawyer referral service to find out if there are any free legal advice clinics that you could attend to get further information, or see Texas Law Help's Find Legal Assistance web page.</p>

Citing Statutes, Court Rules and Ordinances
vs.
Researching Statutes, Court Rules and Ordinances

It is appropriate to share known statutory and court rule citations, especially as they apply to procedures. However, it is not appropriate to conduct legal research. There are two factors that help distinguish between the two:

- If the information is something clerks and court personnel should know as a part of their job, then it is not considered legal research, even if it has to be looked up in the statutes, rules of civil procedure or local court rules.
- If the information is readily available and does not have to be compiled, then it is unlikely to be considered legal research. If the information has to be compiled, then it probably is legal research.

CAN PROVIDE Cites of Statutes, Court Rules and Ordinances	CANNOT PROVIDE Research of Statutes, Court Rules and Ordinances
Question: Can I get a copy of a document from a case? Is it a public records?	Question: What laws govern tort claims?
Response: Court records and documents are public record unless they have been sealed under Rule 76a of the Texas Rules of Civil Procedure, or they are confidential under some other law. The law requires that we charge a copying fee. If the document needs to be certified, there is an additional fee and per page copy fee.	Response: I cannot perform legal research for you, but you can do that research yourself or contact an attorney to assist you. The statutes and rules are available online and at the law library. Contact the State Law Library for help getting started in your research.

General Referrals
vs.
Subjective or Biased Referrals

Because the court, clerks, and court personnel must remain impartial in all matters, do not make referrals to a specific lawyer, law firm, or paralegal service. Instead, refer people to the court's website, local lawyer referral service, the State Bar, or the yellow pages of the telephone book.

It is also helpful to keep lists of contact information for local government agencies and departments where people are frequently referred. Sometimes it is appropriate to make a call to the referred agency or department (if time permits) to make sure it can accommodate the person before sending them there.

CAN PROVIDE General Referral	CANNOT PROVIDE Subjective or Biased Referral
<p>Question: I need a process server. Where do I find one?</p>	<p>Question: Can you recommend a good process server?</p>
<p>Response: We do not have lists of process servers at the court. Pleadings may be served by a sheriff, a constable or you can also check in the phone book or on the internet for certified private process servers.</p>	<p>Response: I'm sorry, but the court must remain impartial. I cannot recommend a specific process server. I suggest that you check the phone book or the internet for a certified private process server.</p>

Tip: Develop and have available a list of general resources and referrals. Good general referrals include the yellow pages and the Internet. A list of certified private process servers is available at <http://www.txcourts.gov/jbcc/process-server-certification.aspx>.

**Permissible
vs.
Impermissible Forms of *Ex Parte* Communication**

Do not transmit information to a judge unless that information has been provided to the other parties in the case. To uphold this principle, follow these guidelines:

- Do not communicate to the judge case information acquired through personal knowledge, read in the newspaper, or heard on the radio or from someone else.
- Do not transmit verbal information to a judge on behalf of a party or attorney concerning a case unless it involves scheduling or other administrative matters.
- Screen the judge's calls. Do not transfer phone calls to a judge from parties or attorneys without learning what the caller wants to talk to the judge about and whether it is associated with a case before the judge, and then ask the judge if he/she wants to take the call.
- Communications about scheduling or other administrative matters are permitted because they do not deal with the litigation's substance or merits, and no party gains an advantage as a result of the *ex parte* contact.

<p style="text-align: center;">CAN PROVIDE Permissible Forms of <i>Ex Parte</i> Communication</p>	<p style="text-align: center;">CANNOT PROVIDE Impermissible Forms of <i>Ex Parte</i> Communication</p>
<p>Question: Has the judge ruled on the motion to dismiss yet?</p>	<p>Question: I am a prosecutor in the DWI case today. Please tell the judge that I don't think we're going to have the trial today because the defendant has already admitted he was drunk.</p>
<p>Response: No, the judge has not ruled on the motion yet. It is still under advisement.</p>	<p>Response: I cannot tell the judge information about potential evidence in the case because it would be an impermissible <i>ex parte</i> communication. I can relay to the judge that the prosecutor states the trial will not go forward, or I can ask the judge if he would be willing to speak to you.</p>

This is a list of some things clerks and court personnel can and cannot do.

We can	explain and answer questions about how the court works.	We cannot	tell you whether or not you should bring your case to court.
We can	provide the number of the local lawyer referral service, legal services program, Texas State Bar lawyer referral service, and other services where legal information is available.	We cannot	tell you what words to use in your court papers. However, we will check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number and presence of attachments.
We can	give general information about court rules, procedures and practices.	We cannot	recommend what to say in court.
We can	provide court schedules and information on how to get a case scheduled.	We cannot	give an opinion about what will happen if you bring your case to court.
We can	give you information from your case file.	We cannot	talk to the judge for you or let you talk to the judge in private.
We can	give you samples of court forms that are available.	We cannot	change an order signed by a judge.
We can	usually answer questions about court deadlines.	We cannot	tell you what deadlines apply in your case.

Resources and Referral Information

Texas Law Help

www.texaslawhelp.org

The Texas Law Help website is a resource for people who do not have an attorney. Topics offered on the website include:

- Civil Rights
- Consumer Cases
- Wills and Estates
- Family Law
- Forms & Instructions
- Juvenile Cases
- Landlord Tenant
- Mediation
- Domestic Violence
- Seniors
- Spanish Resources
- Veteran Issues

Alternative Dispute Resolution

<http://www.texasadr.org/>

Going to court litigation may not always be the best way to resolve a problem. Alternative dispute resolution (ADR) is one way to work out an agreement. Mediation and arbitration, for example, both involve neutral, third parties who may facilitate a resolution. ADR can be used for many types of cases, including co-parenting, divorce, probate, contract disputes, other civil cases and appeals.

Legal Assistance Organizations and Other Non-Profit Organizations

www.texaslawhelp.org

www.lsc.gov

Contact information for Texas agencies and organizations such as Legal Aid of NorthWest Texas, Texas RioGrande Legal Aid, Lone Star Legal Aid, Advocacy, Inc., Texas Legal Services Center's Legal Hotline for Texans, and the Texas Advocacy Project's Family Law Hotline and Family Violence Hotline, and immigration law resources. On the Texas Law Help website, select the *Find Legal Assistance* tab. This tab also contains information about other organizations that assist with various legal problems, including consumer protection, landlord-tenant, OSHA complaints, complaints about nursing homes, and assistance with utility companies. On the Legal Services Corporation website, select Texas on the map of the United States. Most legal aid programs have income guidelines that determine the people or families they can serve. Persons must apply for assistance. Because of resource limitations, not everyone who qualifies will receive assistance.

Finding an Attorney

The State Bar of Texas Lawyer Referral Information Service is a free service provided by the Texas State Bar to help people find an attorney. Access the State Bar of Texas Lawyer Referral Information Service on the Texas Bar website at www.texasbar.com to Find a Lawyer. Get a referral on the right side of the page. Most lawyer referral programs refer people to attorneys who charge a nominal fee for the initial consultation; further fees will be negotiated by the attorney and client if they agree to continue.

Other resources include the yellow pages or friends who may have recommendations. Do not provide lawyer referrals. Another resource is www.martindale.com, an online version of the print lawyer directory Martindale-Hubbell. This site can be searched by location and subject specialty, and provides information about a lawyer's education and experience, as well as the ratings other lawyers give them.

Limited Legal Help

Many people cannot afford to hire an attorney. Limited legal help, also known as "limited scope legal representation," is an alternative way to get legal help. Under this kind of arrangement, an attorney and client agree that the attorney will provide specific services for a predetermined fee. For example, the attorney and client could agree that the attorney do one or more (but not all) of the following:

- will only advise the client about the strength of the case;
- help draft a document;
- review a document the client has drafted;
- coach the client for a negotiation;
- help with the discovery process;
- coach the client for a hearing;
- appear in court on behalf of the client for one hearing only; or
- any combination of these kinds of services.

Hiring an attorney to handle part of a case can be an affordable alternative to hiring one to take care of the entire case (also called "full representation"), and may be preferable to representing yourself in court -- a process that takes time and patience and can be confusing. People who act as their own attorney are expected to know and follow the same rules that attorneys follow.

Not all cases are suited for limited legal help. Attorneys who are interested in providing limited scope representation may be found using the resources described above in the **Finding an Attorney** section. Feel free to ask attorneys if they are willing to provide limited scope representation.

State Bar of Texas www.texasbar.com

The State Bar of Texas Client-Attorney Assistance Program helps resolve problems between clients and attorneys. Also, a person with a complaint against an attorney may file a formal complaint ("grievance") against the attorney with the State Bar. On the State Bar's website, select *Client Assistance & Grievance* for more information. The State Bar's Texas Lawyers Care department publishes a [referral directory of legal services and other resources](#) for low-income Texans.

Texas Law Libraries

Law libraries have print and online resources including statutes, regulations, court rules, and court decisions, as well as legal encyclopedias, form books, and books about specific areas of law. Most law books are written for legal professionals, but some books are written for non-lawyers. Law library staff cannot give legal advice, but they can show people how to use their resources.

Texas State Law Library
www.sll.state.tx.us
205 West 14th Street Austin,
Texas 78701-1614 (512) 463-
1722

Texas Statutes and Legislative Process

www.statutes.legis.state.tx.us (Statutes)
www.capitol.state.tx.us (Texas Legislature)

The first website contains state statutes. The second website contains information about bills in the Texas Legislature and the legislative process.

Texas Court System

www.txcourt.gov

The Texas Judicial Branch website contains information about the Texas court system.

Texas Forms

Legal form books provide sample language that can be used to prepare documents to file with the court. Some forms are fill-in-the-blank, while others only provide language that must be tailored to the situation. Forms are not available for every situation.

- Some courts have forms available online or in the clerk's office or county law library. Check on your court's or county's website.
- Some court forms are available at <http://texaslawhelp.org/resource/texas-forms> (click on *a list of forms and topics*.)
- Texas continuing legal education materials often include forms. Search the catalogs of university law libraries for the relevant topic, such as contracts, and include "Texas" in the search.

Legal Information vs. Legal Advice

Guidelines and Instructions for Court Staff
Who Work With Self-Represented Litigants
in Utah's State Courts

Prepared by the Education Subcommittee of the
Utah Judicial Council
Standing Committee on Resources for Self-Represented Parties

April 2010

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Introduction

Each year thousands of people represent themselves in Utah's courts. It is crucial that you understand how to help the self-represented without giving legal advice. This manual will help you understand where the line between legal information and legal advice is.

You are the face of justice in Utah. How you respond to questions affects how people feel about justice, as well as their access to justice. If someone does not understand how to use the court system, and you do not provide available and needed information, that person is denied access to the courts and justice.

This manual can't anticipate all the possible questions that self-represented parties might ask. If you are unsure whether responding to a question would be giving legal advice, refer to this manual. You can also check with your supervisor.

The law is complicated and confusing. Encourage people to talk to a lawyer about their situation. The *Resources for Self-Represented Parties* section of this manual describes a variety of ways people can get the help of an attorney.

The subcommittee thanks the Arizona Supreme Court Task Force on Legal Advice - Legal Information Guidelines for its permission to use material from its guide.

Roles and Responsibilities of Court Staff

PROVIDE ACCESS TO THE COURTS

- o Access to justice is effectively denied if court customers do not know how to use the system, and the court does not tell them.
- o The court has an obligation to explain court processes and procedures to provide quality customer service and to provide accurate information to all court customers.
- o Your training on what information you can provide to the public will significantly affect access to the courts and the administration of justice.
- o One of the basic principles of the American justice system is that the doors of our courthouses are open to everyone.
- o Most members of the public, however, are not familiar with courts and court procedures and require some level of assistance.

PROVIDE CUSTOMER SERVICE WITH ACCURATE INFORMATION

- o You are responsible for giving court customers the help they need and deserve by providing accurate information as requested in a competent, cooperative and timely manner.
- o You are often the first and only contact the public has with the judicial system, and your responses have an impact on how court customers view their court experience.
- o The court should treat all court customers equally: attorneys, defendants, self-represented litigants and others.
- o Learn the rules about *ex parte*, or one-sided, communication with the judge, and do not let court customers use you or other staff to circumvent that principle.
- o By providing effective customer service, you may reduce the number of times court customers must come to court, and thus reduce stress on the court system.
- o Accessibility to the judicial system is affected by the accuracy of information that the court provides to court customers, along with the manner in which it is presented.
- o You must provide accurate information because even seemingly small mistakes can affect people's lives or the outcome of court cases. It is better to be honest and say "I don't know" than to give incorrect information.

REMEMBER: It is not up to you to determine who needs information. It is your responsibility to provide appropriate help to anyone who asks for it.

Why Court Staff May Not Give Legal Advice, But Should Provide Legal Information

REMAIN NEUTRAL

- o You must remain neutral and cannot promote or recommend a particular course of action to court customers.
- o You may have processed many similar types of cases, but you do not know what is in a court customer's best interest. Only the court customers or their attorneys can make that determination.

BE IMPARTIAL

- o Impartiality is similar to neutrality, but focuses on equal treatment of court customers.
- o You often have considerable knowledge about the way the court functions and so must never give advice or information favoring one court customer over another.
- o Court knowledge must be shared fairly.
- o You must not disclose confidential information or become involved in or facilitate an *ex parte* communication.

DON'T ENGAGE IN THE UNAUTHORIZED PRACTICE OF LAW

- o You must not engage in the unauthorized practice of law by providing legal advice.
- o Only attorneys licensed to practice by the Supreme Court can give legal advice.
- o Even court staff who are attorneys may not give legal advice to court customers because it violates the principles of neutrality and impartiality.

What Is Legal Advice?

Court customers are asking for legal advice when they ask whether or not they should proceed in a certain fashion. Telling a court customer “what to do” rather than “how to do it” may constitute giving legal advice.

Legal advice is a written or oral statement that:

- o Interprets some aspect of the law, court rules, or court procedures, or recommends a specific course of conduct a person should take in an actual or potential legal proceeding,
- o Applies the law to the individual person’s specific factual circumstances, or
- o Requires the person giving advice to have knowledge of the law and legal principles beyond familiarity with court requirements and procedures.

What is Legal Information?

Court staff may:

- o Provide public information contained in dockets, calendars, case files, indexes, and other reports as long as they are public.
- o Recite common, routinely employed court rules, court procedures, administrative practices, and local rules, and explain generally how the court and judges function.
- o Refer self-represented litigants to a law library or the court’s website for statutes and court rules.
- o Explain the meaning of terms and documents used in the court process.
- o Answer questions concerning deadlines or due dates (without calculating due dates).
- o Identify and refer self-represented litigants to court forms. Note: the Supreme Court recently amended Rule 14-802 (c)(3) of the Supreme Court Rules of Professional Practice to allow court staff and others to provide clerical assistance to fill out court forms.

Rule 14-802. Authorization to practice law.

(b)(1) The “practice of law” is the representation of the interests of another person by informing, counseling, advising, assisting, advocacy for or drafting documents for that person through application of the law and associated legal principles to that person’s facts and circumstances.

(c) Whether or not it constitutes the practice of law, the following activity by a non-lawyer, who is not otherwise claiming to be a lawyer or to be able to practice law, is permitted:

(c)(3) Providing clerical assistance to another to complete a form provided by a municipal, state, or federal court located in the State of Utah when no fee is charged to do so.

Court staff may not:

- o Recommend whether to file a certain pleading.
- o Recommend wording or content for a pleading.
- o Recommend specific people against whom to file pleadings.
- o Recommend specific claims or arguments to assert at trial.
- o Recommend what type of damages to seek or from whom to seek them.
- o Recommend techniques for presenting evidence in pleadings or at trial.
- o Recommend which objections to raise or which motions to file.
- o Recommend whether a party should ask for a continuance.
- o Recommend whether or not parties should try to settle their dispute prior totrial.
- o Interpret applications of statutes.
- o Perform legal research for a party.
- o Predict the outcome of a case.

REMEMBER: If you are unsure about the answer to a question, direct the customer to the appropriate court staff or other publicly available source of information.

What is *Ex Parte* Communication?

Black's Law Dictionary defines *ex parte* as “on one side only; by or for one party; done for one party only.” *Ex parte* refers to situations in which only one party appears before a judge or communicates with a judge. These kinds of communications are forbidden unless they are expressly authorized.

With few exceptions, the court rules require that all documents filed with the court be given to all other parties in the case so that the other parties have an opportunity to respond. Thus, it is improper for you to transmit information to the judge unless that information has been provided to the other parties in the case.

If a party submits a written *ex parte* communication for a judge, you should ask the judge what the judge would like to do with the communication. The judge will tell you to either send a copy to all the parties before the judge reviews it or to send it back to the individual who submitted the document. Check with your supervisor for any other local policies on this issue.

If a party asks to talk to a judge, suggest that they write down what they want to say and file it with the court. This written communication should:

- o Include a proper heading, including the case number
- o Be dated and signed, with the name printed under signature
- o Include the party's address and telephone number over the heading
- o Be copied to the opposing party or counsel following Utah Court Rules

The original should be submitted to the clerk and the party should keep a copy for their records

If the party has an emergency situation and there isn't time to submit a written request, you may communicate with the judge by following local rules. The party should be warned that the request may not be granted.

Quality Customer Service: Strategies for Answering Difficult Questions

It is not always clear whether you can answer a question. However, there are several things that staff can do to assist court customers and make it easier to identify whether the question is asking for legal information or legal advice.

LISTEN CLOSELY and ASK QUESTIONS

- o Let court customers ask their questions and listen carefully to what they are asking.
- o Be an active listener and respond reflectively. If necessary, repeat or rephrase the question to state what you think they are asking.
- o Take the time to clarify what court customers need. If someone does not ask a question in the right way, ask follow-up questions to clarify what they mean.
- o Ask court customers if they have completely read any paperwork they may have.

EXPLAIN YOUR ANSWERS AND REASONS AND BE PATIENT

- o Put yourself in the customer's position and think of how much you would appreciate it if someone took the time to answer your questions and explain an unfamiliar process.
- o Coming to court can be stressful, confusing and intimidating, so take the time to welcome and greet court customers.
- o You may have been asked for the same information many times before, but remember that this is the first time for this particular court customer.
- o Remain calm even when the court customer is not. Your attitude is key. Some customers may just need to vent. Take it professionally, not personally. **Keep smiling!**
- o Providing the reasons why you cannot give certain information helps minimize customers' frustration and increases their understanding of the court system. If you cannot answer a question or provide assistance, explain why by telling the court customer how important it is that you remain **neutral and impartial**. Always be clear and concise when providing information. Ask how they would feel if the clerk gave legal advice to the other side?
- o The phrase "I can't give legal advice" should never be used as an excuse not to provide service. Politely state that you cannot explain or interpret the law or say how it would apply to their case because that constitutes giving legal advice. Also, explain that clerks are not legally trained and if the clerk tries to give information about which they are not completely informed, it might jeopardize the outcome of the case for the party.
- o If you cannot answer a question, try to give a good referral such as to a legal clinic, the court's website, or the State Bar. Remember: you **may not** recommend attorneys because you must remain neutral and impartial at all times.

Procedural Explanations vs. Procedural Recommendations

You *should* provide procedural information and explanations on how to accomplish various actions within the court system. Explaining various procedures increases the public's understanding of the court system and provides customers with greater access to the courts.

You *should not* make any recommendation to the customer that would indicate a direct advantage or disadvantage of a particular procedure. It is not appropriate for staff to tell court customers what is the best course of action for them to take, nor is it appropriate to give opinions about the probable outcome of a case.

CAN PROVIDE Procedural Explanations	CANNOT PROVIDE Procedural Recommendations
<p>Question: Can you tell me how to file a small claims action?</p> <p>Response: Yes. You need to fill out a small claims affidavit and then file it with the clerk's office. At the time you file the affidavit, you will have to pay a filing fee. The clerk will issue you a case number and give you copies of the paperwork. You will need to mail one copy to the defendant via certified return receipt mail. These forms are available on the court website.</p>	<p>Question: Can you tell me whether it would be better for me to file a small claims action or a civil action?</p> <p>Response: I cannot tell you which process would be best for your situation because I cannot give you legal advice. You may want to talk to an attorney about this issue to determine which process best fits your situation. You may also contact other legal resource organizations in your area, or you may research at the local law library.</p>

Tip: Have a list of legal resource agencies available to hand to the customer. If you are talking to someone on the telephone, give the customer several of the options on the list from which to choose.

General Information About Court Operations vs. Confidential or Restricted Information About Court Operations

Generally, you can answer questions about court policies and procedures. However, there is some information that could be inappropriately used to affect the status or outcome of a case, such as case assignment procedures, adjournment policies and scheduling practices. It is important for us not to disclose information that would allow one party or another to have an unfair advantage.

As a general rule, it is appropriate for us to provide information on how to do something, but it is not appropriate to answer the “how” question when it involves the disclosure of **confidential** or **restricted** information.

CAN PROVIDE General Information About Court Operations	CANNOT PROVIDE Confidential or Restricted Information About Court Operations
<p>Question: When will my divorce go to court?</p> <p>Response: This time frame may depend on the type of service in the case. Hearings are only needed on contested cases and it will depend upon the status of the pleadings as to when it is set. There are general instructions and appropriate forms for uncontested divorce on the court’s website, or you may wish to obtain legal help if your case is going to go to trial.</p>	<p>Question: I don’t want Judge Doe assigned to my case. Can you tell me when he will be on vacation so that he doesn’t get assigned to it?</p> <p>Response: I’m sorry, but the judge’s schedule will not affect the case assignment. This is done randomly by the court’s computer.</p>

**Tip: You should be familiar with the court rules governing your specific area of the court.
You are *not* responsible for reciting, researching or interpreting the rules for the customer.**

Explaining Legal Terms vs. Providing Legal Interpretations

You should help customers understand legal terms to provide access to the court and to help them understand the court system. While it is appropriate to explain legal terms, it is not appropriate to provide legal interpretations.

CAN PROVIDE Legal Definition	CANNOT PROVIDE Legal Interpretation
<p>Question: What does “proof of service” mean?</p> <p>Response: The rules require parties to file proof with the court that they complied with the requirement to serve other parties. This is called “proof of service”. Proof of service can be by a certificate of service or by acceptance of service. The rules require parties to give copies of any document filed with the court to all other parties in the case. The service options you have are outlined in court rules and state statutes, in particular you may wish to look at URCP Rules 4 to 6. The rules are available on the court’s website.</p>	<p>Question: My neighbors leave their kids at home all day without supervision. Isn’t that child neglect?</p> <p>Response: I am not an attorney or a judge and cannot make that legal determination. I can, however, refer you to Child Protective Services who may be able to help you. If you feel that the children are in any kind of danger, you can always contact law enforcement.</p>

Tip: Utah Court Rules, the Utah Code, and a Finding Legal Help section are available on the court’s website: <http://www.utcourts.gov>

Providing Forms and Approved Instructions vs. Filling out Forms

Another important way to facilitate access to the court is by providing forms and assistance where resources allow. It is important that you know what forms and written instructions are available from the court and other agencies. Often court customers will not know what forms to request in order to bring their matters before the court. When this happens, staff should direct customers to available resources for forms such as the court's website, law libraries, and legal clinics.

You can answer procedural questions about how to complete court papers and forms. For example, staff can tell a customer whether a form needs to be notarized or what factual information the form is asking for. Staff cannot, however, tell a court customer what words to put on the forms. If someone asks what to say in a form, staff should tell the customer to use his or her own words. Due to time and resource constraints, you should suggest that customers fill out as much of their form as possible before asking for assistance.

The Americans with Disabilities Act (ADA) requires you to provide reasonable accommodation to people with disabilities, which may include helping them fill out forms. Some legal clinics and legal service agencies will help people with disabilities fill out forms.

When helping a court customer fill out forms, write down exactly what the person dictates, word for word. Do not correct the person's grammar, and do not paraphrase or edit what the person says. This can be considered giving legal advice, and threatens the court's impartiality. Once you've filled out the form, read it back to the party to confirm that what you have written is correct. Write or stamp "dictated by court customer, written verbatim by court staff," and your name or initials in the margin, and why the assistance was necessary.

<p style="text-align: center;">CAN PROVIDE Providing Forms and Approved Instructions</p>	<p style="text-align: center;">CANNOT PROVIDE Filling Out Forms</p>
<p>Question: I need to file for divorce and I have no idea where to begin. Is there some place I can go to find out how to get started?</p> <p>Response: Sure. The Court's website has interactive forms and instructions for uncontested divorces. The program is called OCAP. There is a \$20.00 fee for using these forms, which will be charged upon filing of your case.</p>	<p>Question: The self-help divorce petition says I can ask for spousal support if my spouse contributed to my educational opportunities. Since my husband stayed home to watch the children while I took night classes, should I mark that box on the form?</p> <p>Response: I can explain what the form is asking, but I cannot help you decide what information to enter. If you have questions about what information is appropriate to enter on the forms, you can ask an attorney or visit a legal clinic. Information about legal clinics is available on the court's website.</p>

Public Case Information vs. Confidential Case Information

Some documents or entire cases are confidential and you cannot disclose the information. Be sure to ask your supervisor if you do not know what records or cases are public and what are not.

Access to internal memoranda legal notes or preliminary drafts prepared by or under the direction of any judicial officer that relate to the adjudication, resolution or disposition of any past, present or future case, controversy or legal issue is limited to court staff for case processing purposes only.

You must not disclose the outcome of a matter submitted to a judge for decision until the outcome is part of the public record or the judge directs disclosure of the matter.

You must not speculate on the possible outcome of a matter submitted to a judge or a jury until the outcome is part of the public record. This also applies in cases when a matter has not yet been submitted to the court.

Generally, there are three categories of records designated confidential by statute, court rule or court order. These records are designated as **private, protected, or sealed**.

Private/Protected Records

Unless otherwise ordered by the court, only the following people may be given access to confidential records (for example: un-finalized adoptions, custody evaluations, home studies)

- o Parties to the action
- o Counsel of record
- o Individuals with a written order from the court authorizing access
- o Court staff - for case processing purposes only. There are also some additional exceptions (see UCJA 4-202.03 or talk to your supervisor).

You should not read private or protected records unless necessary to do your job. Private or protected records contain highly personal information about parties, and it is inappropriate for you to read these records unless required for your work.

Sealed Records

Access to these records is restricted to the judge. After a record is sealed, not even court staff may open the record without permission from the court. Clerks may acknowledge existence of the case and a case number but nothing more (for example: finalized adoptions and wills).

Attorneys will often ask that a case or a pleading be “sealed.” In most situations they are really asking that the file or document be made “private.”

<p style="text-align: center;">CAN PROVIDE Public Case Information</p>	<p style="text-align: center;">CANNOT PROVIDE Confidential Case Information</p>
<p>Question: My mother died four months ago and I lost my paperwork regarding her probate case. Can you give me the case number, and can I get copies of the pertinent documents?</p> <p>Response: Yes. I need to know her name. I'll check our records and give you the case number. Then, you can visit our courthouse and view the file, or you may purchase copies over the phone using a credit card.</p>	<p>Question: I think there is a mental health case for my uncle in your court. His name is John Smith. Can you tell me anything about his case?</p> <p>Response: Mental health cases are private and therefore I cannot provide you with any information. In order to protect the privacy of individuals I can't even tell you whether we have a case for John Smith. This type of information can only be disclosed by court order.</p>

Options vs. Opinions

You can provide information on the various procedural options that are available and what the differences are between the options. It is important for staff to explain options because the customer is often not aware of those options. By explaining options, you provide customers with better access to the courts. It is also important that staff advise customers of all appropriate options. Providing only some of the options may indirectly influence a decision by limiting the customer's choices.

You cannot give an opinion about what specific remedies to seek or which option the customer should use or otherwise advise someone on whether to bring the problem before the court. Staff must remain neutral and cannot take a position that will encourage or discourage a particular course of action.

CAN PROVIDE Options	CANNOT PROVIDE Opinions
<p>Question: What can I do if I cannot afford to pay the filing fee?</p> <p>Response: You can request a waiver of fee form, which allows you to open your case without paying the fee. At the end of your case, you may also qualify for a full waiver of your fees. The forms are available on the court's website.</p>	<p>Question: My ex-husband hasn't paid the debts that he agreed to pay in our divorce settlement. Now he's filed for bankruptcy. The creditors are coming after me. This is ruining my credit. I don't live in Utah anymore. What can I do? He had an agreement and he's not following it. Can I be made responsible for this debt?</p> <p>Response: I can't advise you what you can do because I cannot give you legal advice. The bankruptcy filing further complicates this matter. You may want to consult an attorney. You can contact your local court to find out if there are any free legal advice clinics that you could attend to get further information, or see the court's Finding Legal Help web page.</p>

Tip: Always make it clear to court customers that they may have other options available to them that you are not aware of.

Citing Statutes, Court Rules and Ordinances vs. Researching Statutes, Court Rules and Ordinances

You will often know statutory and court rule citations, especially as they apply to procedures, and it is appropriate for you to share this information. However, it is not appropriate for you to conduct legal research. There are two factors that help distinguish between the two:

- o If the information is something staff should know as a part of their job, then it is not considered legal research, even if staff has to look it up in the Utah Code or Court Rules.
- o If the information is readily available and does not have to be compiled, then it probably would not be considered legal research. If the information has to be compiled, then it probably is legal research.

CAN PROVIDE Cites of Statutes, Court Rules and Ordinances	CANNOT PROVIDE Research of Statutes, Court Rules and Ordinances
<p>Question: Can I get a copy of a document from a case? Is it a public record?</p> <p>Response: Court records and documents are public record unless categorized as private, sealed or protected (see UCJA Rule 4-202.03) The law requires that we charge a 25¢ per page copying fee. If the document needs to be certified there is a \$4.00 service fee and 50¢ per page copy fee.</p>	<p>Question: Can you tell me what laws govern tort claims?</p> <p>Response: I cannot perform legal research for you, but you can do that research yourself or you can contact an attorney to assist you. The statutes, rules and ordinances are available online and at the law library. You can contact the State Law Library for help getting started in your research.</p>

General Referrals vs. Subjective or Biased Referrals

Because the court and court staff must remain impartial in all matters, you cannot make referrals to a specific lawyer, law firm or paralegal service. You can refer customers to the court's website, the State Bar, or the yellow pages of the telephone book

It is also helpful to keep lists of contact information for local government agencies and departments where you frequently refer customers, so you can point people in the right direction. Sometimes it is appropriate to make a call to the referred agency or department (if time permits) to make sure it can accommodate the person before sending them there.

<p align="center">CAN PROVIDE General Referral</p>	<p align="center">CANNOT PROVIDE Subjective or Biased Referral</p>
<p>Question: I need a process server. Where do I find one?</p> <p>Response: We do not have lists of process servers at the court. Pleadings may be served by a sheriff, a constable or you can also check in the phone book or internet for licensed process servers.</p>	<p>Question: Can you recommend a good process server?</p> <p>Response: I'm sorry, but the court must remain impartial. I cannot recommend a specific process server. I suggest that you check the phone book or the internet for a licensed process server.</p>

Tip: Develop and have available a list of general resources and referrals to give customers. Good general referrals include the yellow pages and the Internet.

Permissible vs. Impermissible Forms of *Ex Parte* Communication

As discussed earlier, you may not transmit information to a judge unless that information has been provided to the other parties in the case. To uphold this principle, you should follow these guidelines:

- o Do not communicate to the judge case information that you know through personal knowledge, that you have read in the newspaper or heard on the radio, or that someone told you.
- o Do not transmit verbal information to a judge on behalf of a party or attorney concerning a case unless it involves scheduling or other administrative matters.
- o Screen the judge's calls. Do not transfer phone calls to a judge from parties or attorneys without learning what the caller wants to talk to the judge about and whether it is associated with a case before the judge, and then ask the judge if he/she wants to take the call.
- o Communications about scheduling or other administrative matters are permitted because they do not deal with the litigation's substance or merits, and no party gains an advantage as a result of the *ex parte* contact.

<p style="text-align: center;">CAN PROVIDE Permissible Forms of <i>Ex Parte</i> Communication</p>	<p style="text-align: center;">CANNOT PROVIDE Impermissible Forms of <i>Ex Parte</i> Communication</p>
<p>Question: Has the judge ruled on the motion to dismiss yet?</p> <p>Response: No, the judge has not ruled on the motion yet. It is still under advisement.</p>	<p>Question: I am a prosecutor in the DUI case today. Please tell the judge that I don't think we're going to have the trial today because the defendant has already admitted he was drunk.</p> <p>Response: I cannot tell the judge information about potential evidence in the case because it would be an impermissible <i>ex parte</i> communication. I can relay to the judge that the prosecutor states the trial will not go forward, or I can ask the judge if he would be willing to speak to you.</p>

Tip: Remember that *Black's Law Dictionary* defines *ex parte* as "one side only; by or for one party; done for one party only."

Resources for Self-Represented Parties

Utah State Courts' Self Help Web Page

<http://www.utcourts.gov/howto/>

The Utah State Courts' Self Help web page has resources for people trying to do their own legal work, and makes it easier for public library staff to direct them to that information. Topics offered on the Self Help page include:

- Appeals
- Civil Cases
- Criminal Cases
- Estate Planning & Probate
- Families & Children
- Forms & Instructions
- Juvenile Cases
- Landlord-Tenant
- Mediation
- Protection from Abuse
- Seniors
- Spanish Resources
- Traffic Matters

Alternative Dispute Resolution

<http://www.utcourts.gov/mediation>

Going to court – litigation – is not always the best way to resolve a problem. Alternative dispute resolution (ADR) is one way to work out an agreement. Mediation and arbitration, for example, both involve neutral, third party representatives who guide the resolution process or reach a settlement. Specific ADR programs are available for many types of cases, including child welfare, co-parenting, divorce, probate, victim-offender and appeals.

Government Agency or Non-Profit Help

<http://www.utcourts.gov/howto/legalassist/#3>

Information about government agencies and non-profit organizations which investigate complaints and work with parties to resolve differences. Areas include consumer protection, landlord-tenant, complaints about people in trades or professions (such as an electrician or doctor), securities fraud, and utility companies.

Legal Assistance Agencies and Organizations

<http://www.utcourts.gov/howto/legalclinics/#2>

Descriptions of and contact information for Utah agencies and organizations such as the American Civil Liberties Union, Disability Law Center, DNA People's Legal Services (Navajo Nation), immigration law resources, Legal Aid Society of Salt Lake, Multicultural Legal Center, Small Claims Mediation Programs, Utah Dispute Resolution, and Utah Legal Services.

Finding an Attorney

LegalMatch is a free service provided by the Utah State Bar to help people find an attorney. A person can confidentially post information about their legal issue and interested attorneys will respond. Attorneys can be compared by experience, ratings, offers, and fees. Access LegalMatch on the Utah Bar Association website: go to <http://www.utahbar.org/> and select *Find a Lawyer* from the left column.

Other resources include the telephone yellow pages and asking friends to recommend a good attorney. You cannot provide lawyer referrals.

Another resource is martindale.com, an online version of the print lawyer directory Martindale-Hubbell. This site can be searched by location and subject specialty, and provides information about a lawyer's education and experience, as well as the ratings other lawyers give them.

Limited Legal Help

Many people can not afford to hire an attorney. Limited legal help, also known as "limited scope legal representation" or "unbundled services" is an alternative way to get legal help. Under this kind of arrangement, an attorney and client agree that the attorney will provide specific services for a predetermined fee.

For example, the attorney and client could agree that the attorney:

- o will only advise the client about the strength of the case, or
- o help draft a document, or
- o review a document the client has drafted, or
- o coach the client for a negotiation, or
- o help with the discovery process, or
- o coach the client for a hearing, or
- o appear in court on behalf of the client for one hearing only, or
- o any combination of these kinds of services

Hiring an attorney to handle part of a case can be an affordable alternative to hiring one to take care of the entire case (also called "full representation"), and is preferable to representing yourself in court – a process that takes time and patience and can be confusing. People who act as their own attorneys are expected to know and follow the same rules that attorneys do.

Not all cases are suited for limited legal help, and the idea of limited legal help is just beginning to be adopted by attorneys in Utah. A person should find the names of a couple of attorneys using the resources described in the Finding an Attorney section, and then talk about the possibility of hiring them to provide limited legal help.

Utah's Law Libraries

Law libraries have print and online resources including statutes, regulations, court rules, and court decisions, as well as legal encyclopedias, form books, and books about specific areas of law. Most law books are written for legal professionals, but some books are written for non-lawyers. Law library staff can't give legal advice, but they can show people how to use their resources.

Brigham Young University
Howard W. Hunter Law Library
BYU Campus, Provo
801-422-3593
www.law2.byu.edu/Law_Library/

Utah State Law Library
450 S. State Street, Rm. W-13
Salt Lake City
801-238-7990
www.utcourts.gov/lawlibrary/

University of Utah
S.J. Quinney Law Library
332 South 1400 East
University of Utah Campus, Salt
Lake City
801-581-6438
www.law.utah.edu/sjqlibrary/

Weber County Law Library
2464 Jefferson Avenue
Ogden
801-337-8466

Legal Clinics

<http://www.utcourts.gov/howto/legalclinics/#2>

Legal clinics give general legal information and brief legal advice. Clinics also provide help with forms, and give people a chance to ask questions about the law. Most legal clinics handle civil law matters only. Talking to someone at a legal clinic is not the same as hiring an attorney, because the attorneys there may not take cases or represent people in court. Going to a legal clinic can help someone decide if they can handle the matter on their own, or if they should hire an attorney. A list of legal clinics statewide is available on the court's website.

Utah Forms

Legal form books provide sample language you may use to prepare documents to file with the court. Some forms are fill-in-the-blank, while others only provide language that must be tailored to the situation. Forms are not available for every situation.

- o The court's Online Court Assistance Program (OCAP) <http://www.utcourts.gov/ocap/>) is a free online program that helps you generate the paperwork for Divorce, Landlord- Tenant, Guardianship of a Minor, Paternity, and Stalking or Protective Order matters.
- o Other court forms are available on the court's website at <http://www.utcourts.gov/resources/forms/>, for matters such as Child Support, Expungement, Garnishment and Name Change.
- o Search the web for Utah legal forms. As with all legal research, be sure to check that the information is current, consider the source of the information, and make sure it complies with Utah laws and court rules.
- o Some forms are published in the *Utah Code* (annotated and unannotated); look in the index under Forms.
- o The Utah State Bar publishes the Utah Uniform Probate Code Forms; some are available for free online on the Utah Probate Solutions website at <http://www.utahprobate.com/uupcforms.htm>.
- o Hansen & Neeleman, *Utah Probate System*, 2nd ed. includes the Utah Uniform Probate Code Forms, as well as other probate-related forms.
- o Utah continuing legal education materials often include forms. Search the catalogs of university law libraries for the topic you are interested in, such as contracts, and include "Utah" in your search.
- o Some state-approved forms are published on Utah state agency website (for example, corporation, tax, real estate). A list of state agencies – with links to website – is available online at <http://utah.gov/government/agencylist.html>.
- o Some forms are published in the Appendix of Forms of *Utah Court Rules Annotated*.
- o Thomas, *Utah Civil Practice* includes forms for use in Utah civil cases.

Utah's law libraries have a variety of general (not Utah-specific) form books, such as *West's Legal Forms*, *American Jurisprudence Legal Forms*, *American Jurisprudence Pleading & Practice Forms*, and *Federal Practice and Procedure*.

WE WILL BE HAPPY TO HELP YOU IF WE CAN. HOWEVER, WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS, SINCE WE WANT TO BE FAIR TO EVERYONE.

This is a list of some things court staff can and cannot do for you.

We can provide you with a list of local lawyers or the telephone number of the Utah State Bar lawyer referral service.

We can explain and answer questions about how the court works.

We can give you general information about court rules, procedures and practices.

We can provide court schedules and information on how to get a case scheduled.

We can give you information from your case file.

We can give you samples of court forms that are available.

We can usually answer questions about court deadlines and how to compute them.

We cannot tell you whether or not you should bring your case to court.

We cannot tell you what words to use in your court papers. However, we will check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number and presence of attachments.

We cannot tell you what to say in court.

We cannot give you an opinion about what will happen if you bring your case to court.

We cannot talk to the judge for you.

We cannot let you talk to the judge outside of court.

We cannot change an order signed by a judge.

Utah Court System Mission Statement

The mission of the Utah Courts is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.