

**PROPOSED TEXAS SUPREME COURT POLICY
ON ASSISTANCE TO COURT PATRONS
BY COURT STAFF, LAW LIBRARIANS, AND COURT VOLUNTEERS¹**

(a) Purpose and Scope.

Court personnel are encouraged to provide assistance and legal information to all court patrons. This policy is intended to provide guidance to court personnel subject to a judge or judicial administrator's direction and control, such as court staff, bailiffs, law librarians and staff, and court volunteers, as to what assistance may and may not be offered to court patrons to achieve fair and efficient resolution of their cases.

Assistance permitted under this policy should be provided in the same manner to all court patrons. No court patron should be denied assistance on the basis of being a self-represented litigant.

(b) Definitions. [*Note question posed in Note 2.*²]

- (1) "Court patron" means any person, such as an attorney, self-represented litigant, or other member of the public, who is accessing the judicial system.
- (2) "Self-represented litigant" means any individual accessing the judicial system who is not represented by an attorney.
- (3) "Legal information" means neutral information about the law and the legal process. Legal information is different from legal advice, which involves giving guidance based on legal skills or knowledge regarding an individual's legal rights and obligations in light of his or her particular facts and circumstances.³

(c) Permitted Assistance. Court personnel, acting in a non-lawyer capacity on behalf of the court, may provide assistance and legal information to court patrons as follows:

¹ A parallel policy will be provided for court clerks.

² The subcommittee seeks input and discussion on whether a definitions section should be included. Stated another way, can the same objectives be better achieved through sections (a), (c), and (d)?

³ Note the definition in Section 81.101 of the Texas Government Code:

(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.

- (1) Providing information about court rules, court terminology and court procedures, including, but not limited to, requirements for service, filing, scheduling hearings, and compliance with local procedure;
- (2) Informing 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 court-affiliated educational classes, including parenting education and traffic safety classes and alternative dispute resolution services;
 - j. Units or departments of government; or
 - k. Domestic violence resources.
- (3) Encouraging self-represented litigants to consult a lawyer;
- (4) Providing 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) Offering educational classes and informational materials;
- (6) Helping court patrons locate court forms and related instructions based on the court patron's description of what he or she wants to request from the court. Court personnel must provide forms for the waiver of filing fees or other forms as required by law;
- (7) Recording on forms verbatim information provided by the self-represented litigant if that person is unable to complete the forms due to language, disability or literacy barriers;
- (8) Reviewing documents and forms for clerical completeness, such as checking for signature, notarization, correct county name, case number, and other items necessary for filing, and if incomplete, stating why the document or form is incomplete;
- (9) Directing court patrons (who are conducting self-guided research) to resources;
- (10) Providing 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; or
 - d. Providing instructions about how to access such information.
- (11) Informing court patrons of the process for requesting a foreign language or sign language interpreter;
- (12) Instructing a court patron on how to obtain access to a case file that has not

- been restricted by statute, rule or order, and provide access to such a file;
- (13) Providing the same assistance and information to all parties to an action, as requested; or
 - (14) Providing other assistance consistent with the intent of this policy.

(d) Prohibited Assistance. Court personnel, 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) Refuse to file documents and forms because they are incomplete or otherwise insufficient;
- (3) Give an opinion about what will happen if a case is brought to court;
- (4) Represent court patrons in court;
- (5) Provide legal advice, analysis, or strategy to a court patron;
- (6) Disclose information in violation of the law;
- (7) Deny a self-represented litigant access to the court, the court docket, or any assistance provided to other court patrons;
- (8) Tell a court patron anything he or she would not repeat in the presence of any other party involved in the case;
- (9) Refer a court patron to a specific lawyer or law firm, except as provided by section (c)(2); or
- (10) Otherwise engage in the unauthorized practice of law.

(e) Unauthorized Practice of Law and Privilege. Assistance provided in accordance with section (c) of this policy does not constitute the unauthorized practice of law and does not create an attorney-client relationship. Information exchanged in accordance with section (c) of this policy is neither confidential nor privileged, except as otherwise protected by law.

(f) Code of Judicial Conduct. Assistance provided in accordance with section (c) of this policy does not violate the Code of Judicial Conduct.