

Legal Advice for Court Employees Quick Reference

CAN Provide:

CANNOT Provide:

Can provide legal <i>definitions</i>	Cannot provide legal <i>interpretation</i>
Reason: Legal terminology can be confusing. Providing definitions of legal terms or procedures helps the public understand the court system and does not involve the unauthorized practice of law.	Reason: Court support staff cannot provide legal interpretations because it would be considered the unauthorized practice of law and would violate the concepts of neutrality and impartiality.
Can provide <i>procedural definitions and explanations</i>	Cannot provide <i>procedural advice</i>
Reason: Court procedures can be confusing. Explaining various procedures increases the public's understanding of the system and does not violate the concept of neutrality.	Reason: Court support staff cannot give procedural advice, because in doing so they may favor one party over another or may encourage or discourage a party from a particular course of action. You must remain impartial and neutral at all times. You can, however, point out various factors that individuals can consider to make the decision themselves.
Can provide <i>cites for statutes, court rules and ordinances</i>	Cannot provide <i>research of statutes, court rules and ordinances</i>
Reason: A court employee may cite the legal authority for a specific procedure.	Reason: You cannot research statutes, court rules and ordinances for parties because it would be considered the unauthorized practice of law and violates the concepts of impartiality and neutrality.
Can provide <i>case information that is a matter of public record</i>	Cannot provide <i>confidential case information</i>
Reason: Court support staff can provide case information that is public. Most court records are considered public records and, therefore, are available to the public.	Reason: Court support staff cannot disclose non-public or confidential information. It is very important that clerks understand what information is confidential.
Can provide <i>general information about court operations</i>	Cannot provide <i>confidential information about court operations</i>
Reason: Court employees have considerable knowledge and information about how a court functions. Sharing this knowledge of general court operations is not considered legal advice.	Reason: Court employees cannot disclose confidential information about court operations or ex parte communications because it can give one side an unfair advantage.
Can provide <i>options</i>	Cannot provide <i>opinions</i>
Reason: You can provide information on the various procedural options available and can explain how to do something.	Reason: You cannot give an opinion on or otherwise advise parties to use a particular procedure or remedy.
Can <i>facilitate access</i>	Cannot <i>deny or discourage access, nor encourage litigation</i>
Reason: Most people are not familiar with the court system. They often cannot describe their problem in legal terms. Court staff are gatekeepers to the system. It is their job to ensure that the court system is accessible.	Reason: Most people are not familiar with court procedures or terminology. Legal advice should not be used as an excuse not to provide service. If the question is not asked in the right way, take the time to clarify what is being asked.
Can provide <i>general referrals</i>	Cannot provide <i>subjective or biased referrals</i>
Reason: General referrals can be made to agencies and associations that can provide additional information and assistance.	Reason: Employees of the court must remain neutral and impartial and cannot make referrals to specific individuals.
Can <i>distribute forms and instructions on how to complete forms</i>	Cannot <i>fill out forms unless there is a handicap or physical disability that prevents the person from filling out the form</i>
Reason: Court employees must facilitate access to the court system.	Reason: Court employees should not fill out forms for parties because it violates the principles of neutrality and impartiality. However, there may be some situations where it is appropriate for clerks to record information on a form. Some examples include language barriers (illiteracy or foreign language) and physical handicaps (blindness or deafness).