



Guidelines for the Operation of Self-Help Centers in South Carolina Courts

South Carolina Judicial Department
South Carolina Access to Justice Commission
March 2011



Introduction

Pursuant to the provisions of S.C. Const. Art. V, §4, the Chief Justice of the South Carolina Supreme Court orders the use of these guidelines in any court-based self-help center located in South Carolina beginning March 2011. The Supreme Court Access to Justice Commission shall review these guidelines every two years.

The South Carolina Judicial Department and the South Carolina Access to Justice Commission would like to acknowledge the Administrative Offices of the California Courts for their assistance with the creation of these guidelines.

General Guidelines

- 1. These guidelines apply to all court-based self-help centers whether the services provided by the center are managed by the court or by an entity other than the court.**
- 2. It is important that the court maintain its independence and appearance of neutrality by clearly distinguishing services with which it is associated from those it is not. Thus, the guidelines apply to all self-help center services that the public will identify as court associated or connected, such as:**
 - Self-help center services offered in the courthouse or another court location;
 - Self-help centers located anywhere that are identified as “court self-help centers”;
 - and
 - Self-help centers in which the court participates collaboratively, such as by providing staff or funding.

Commentary

The guidelines do not specifically apply to the routine assistance given to self-represented litigants by all court staff. Assistance by staff at filing windows and questions answered by courtroom clerks, for example, would be not be governed by these guidelines but by the ethical guidelines for court employees.

Operations and Services

Location

3. The self-help center should be located at or near the courthouse and seek to meet two critical objectives: (1) ease of use for the public and (2) efficient use of staff.

Commentary

Locating a court self-help center in the courthouse allows for the most effective collaboration between the self-help center and the court clerk for the smooth flow of paperwork. If it is not possible for a self-help center to be located in a courthouse, the center may be located in a courthouse annex or other facilities that are adjacent to the courthouse, or ideally within walking distance from the courthouse.

- When a self-help center is located too far from the courthouse, fewer people make use of the center's services, and more litigants direct inquiries toward the clerks at the court's filing windows. A location that is close to the courthouse saves the time of judges and clerks by providing a convenient place to which litigants can be referred for immediate assistance.
- When court self-help center services are located a significant distance from the courthouse, litigants often misassemble paperwork by the time they reach the courthouse for filing or do not bring their paperwork to the courthouse to complete the intended filing. This often results in return visits to the self-help center to repeat tasks; expending resources better spent providing assistance to other patrons.
- When the self-help center staff is separated from the rest of the court staff and from the daily operations of business offices and courtrooms, it is difficult for the court to engage in best practices for caseload management. Co-location also supports communication and effective coordination of self-help center and clerk services.
- Issues of security for self-help center staff and users are more difficult to address when the center is not located inside the courthouse. Self-help centers should be able to ensure a safe place for the public to come and receive self-help services and a safe working environment for self-help center staff.

Where there are multiple courthouses, the court self-help center may choose to focus its services in one courthouse location. Satellite services may be offered at certain times at the other court locations. Differing levels of service among courthouses may be appropriate based on the types of cases being heard in each location or made necessary by factors such as available funding or facilities space.

4. To avoid any appearance of impropriety, private law offices and legal services offices may not be used as sites for a court self-help center.

Commentary

Legal services organizations and private attorneys are court users who bring cases regularly in front of the court as advocates. The court should not have or appear to have a special relationship with any particular attorney or legal services organization that might bring into question the neutrality of the court in cases involving those parties or their attorneys.

If a self-help center does share space with another legal services such as a legal aid program, clear signage should help the public distinguish between the court-operated services and the non-court-operated services.

Hours of Operation

5. Court self-help centers should seek to establish and maintain regular hours of operation that provide the most effective access possible for the public.

Commentary

Local courts should decide which hours of service that the court self-help center will provide assistance to the public to maximize the delivery of services.

The court should publish the schedule of services provided by the self-help center and its hours of operation. This information should be clearly posted at the center, at the clerk's office, and on the court's Web site. The court also should publish this information in relevant community locations, where self-represented litigants are likely to seek assistance.

Integration Within the Court

6. The self-help center staff should be included in regular meetings with court administration, judicial officers, and other operational staff to discuss administrative and general issues facing self-represented litigants.

Commentary

Consistent meetings are central to the kind of communication that makes a court self-help center work well for both the court and self-represented litigants. It is critical that judges, courtroom clerks, filing clerks, administrators, and other court staff understand the services offered by the self-help center so that self-represented litigants can be accurately and promptly assisted. It is equally important that litigants not be sent to the self-help center with expectations of services that may not be available.

Court self-help centers may offer a variety of services to self-represented litigants throughout their cases, from before a case is filed through post-judgment activities. The center should maintain good lines of direct communication with all involved court parties so that accurate and effective information may be provided at any point in the court process. This requires good communication with judicial officers and courtroom clerks about courtroom issues, with file clerks about paperwork, with administrators about management issues, and with other staff as appropriate.

Self-help center staff hears about difficulties that self-represented litigants face in the court system and may come up with some solutions that involve other parts of the system. These solutions can often be easily incorporated with good internal communications. Similarly, other court staff can provide feedback to the self-help center on needs they see and any suggestions for improvement. Courts should have an internal communication mechanism that allows all staff to share ideas and suggestions on how to improve the processes and policies that affect self-represented litigants.

The ability to provide competent, neutral, and unbiased information to the public, and to maintain the clear appearance of neutrality for the court, is foundational for a court self-help center. Regular meetings that involve the self-help attorneys and staff, judicial officers, administrators, and others will help everyone understand how the practical application of this principle is applied in the center on a day-to-day basis, and help prevent confusion.

Community Collaboration

- 7. In order to maximize services, court self-help centers should collaborate with existing courthouse programs.**

Commentary

The self-help center should collaborate closely with any other court-operated program providing assistance to self-represented litigants to avoid duplicating services.

- 8. Self-help centers should maintain a current and complete referral list and develop referral protocols with all appropriate community-based organizations and lawyer referral services to ensure efficient and effective referral of matters where counsel is necessary.**

Commentary

Many cases are not appropriate for self-representation, either because of the individual needs of the litigant or the complexity of the legal issues involved. In such cases, referrals for legal counsel and/or representation should be made because a self-help center simply cannot offer adequate service.

Regular meetings between representatives of community-based entities should be encouraged to ensure accuracy of information and encourage collaboration and coordination of services. Self-help centers should provide appropriate referrals to other services, such as lawyer referral services.

Contracting Services

- 9. If the services provided by a court self-help center are operated by an entity other than the court, the court should execute a written agreement with that entity.**

Commentary

By its terms, the agreement should allow the court the ability to monitor and ensure that the program:

- Provides high-quality services;
- Does not breach the duty of the court to maintain its independence and neutrality, including the requirement that services be available to all parties in a litigation;
- Does not compromise the court's appearance of neutrality; and
- Is in compliance with all applicable South Carolina court rules and these guidelines.

The public will perceive the court as being accountable for the operations of the court self-help center regardless of who is operating the center. Only by clear written agreement can a court attempt to ensure that the services provided by another entity are of high quality and neutral and that they employ staff who conduct themselves in a manner that is ethically and professionally appropriate.

In some cases, community programs operating within a courthouse may serve only one side of a case. For example, a community legal services agency may wish to provide services for litigants who are seeking restraining orders but not for those responding to them. Another program may wish to assist tenants but not landlords. Either situation taken alone is unacceptable for the judiciary, because of the lack of impartiality in services. However, if care is taken to provide substantially equivalent assistance to the other side of the litigation through another program in the courthouse, such services may be offered.

The court self-help center can also help provide services to those who may not meet the income eligibility requirements that limit the availability of another self-help partner program.

Scope of Services

10. Self-help centers should provide services that are competent, neutral, and unbiased and that are designed to provide practical legal information to self-represented litigants.

Commentary

The information provided to self-represented litigants should be accurate. This requirement necessitates legal oversight by the self-help center attorney. Self-help center staff should not attempt to answer questions to which they are unsure of the correct answers or about topics in which they have not had adequate training or experience.

The information provided should not only be impartial but also maintain the appearance of court neutrality. Services are standardized in that self-help center staff should give the same answer to a question regardless of who asks the question. The staff may ask appropriate questions to assist in clarifying the facts, and otherwise promote a focus on facts relevant to the court. Staff would give the same information to the other side of the case should that individual come to the center for assistance.

Although the services of a court self-help center are limited, services must never be withheld on the basis of bias. Court self-help centers should seek to provide meaningful access to justice to the self-represented litigants free of discrimination on the basis of factors such as gender, mental illness, age, sexual orientation, race, religion, nationality, English proficiency, physical disability, or type of party or litigant.

Neutrality can be fostered by the method of service delivery. For example, by providing information in a workshop setting, substantial information can be given about the requirements of service of process, or the definitions of types of child custody. Since the same information is given to several people at the same time, it is clearly not designed to give any one of them a particular strategic advantage in their case. Furthermore, the

workshop participants are not inclined to expect that the information is confidential or that any special relationship with self-help center staff has been formed during the service delivery process. The same message of neutrality may be conveyed in individual meetings with litigants by making it clear that the information provided would be the same information provided to the other side of the case should that person seek assistance from the center, and that the communications with the self-help center staff are not legally privileged as they would be with an attorney who was actually representing them.

The court self-help center should provide practical information for the self-represented litigant. For example, if some cases are not reasonably suitable for self-representation, the most helpful information for litigants is that they should not try to represent themselves. They should be provided with a list of appropriate referrals.

11. When a litigant cannot be effectively assisted in the court self-help center, prompt referral to appropriate legal assistance should be made whenever possible.

Commentary

There are often situations in which cases or issues are simply not suitable for self-representation because of the complexity of the law or facts involved. In such circumstances, it is not reasonable or practical for any self-help center to attempt to sufficiently educate a litigant to adequately pursue his or her case without counsel because of the potential for serious problems. Here the issue is not one of neutrality but of reason and practicality. What would take a semester to teach in law school cannot be transferred through a court self-help system. Complicated discovery, valuation and division of stock options, qualified domestic relations orders, medical malpractice, or product liability complaints—all are examples of cases and issues that may not be suitable for self-representation. In such cases, inappropriate reliance on self-help center services may be potentially harmful to the litigant and to the court.

There are also situations where litigants may be unable to self-represent because of certain challenges, such as literacy issues, limited English proficiency, and other obstacles such as mental health issues or complex individual circumstances.

A standardized intake protocol can help staff perform an efficient and unbiased analysis of the needs of litigants during the initial interview and can help ensure that everyone is treated fairly. In situations where a litigant cannot be effectively assisted in the center because of the nature or complexity of the case or other issues faced by the litigant, prompt referrals should be made to appropriate legal resources wherever possible. It is critical to the effective operation of a court self-help center that the community has lawyers, either from legal services organizations or the private bar, willing and available to provide free and low cost legal counsel and representation. Without these legal resources, all interested parties, judges, court staff, administrators, litigants, and self-help center staff may be tempted to encourage the center to try to fill this gap in the professional community. A court self-help center cannot take the place of attorneys who are able and willing to provide pro bono, low-cost, or unbundled legal counsel and representation to the public. If there is such a gap, appropriate meetings should be promptly initiated between the court and the bar to discuss how to address this missing level of legal service to the community.

- 12. The self-help center may not provide assistance on any issue on which a litigant is actively represented by an attorney. The center should develop a written protocol to avoid providing service to litigants who are currently represented by an attorney on that issue.**

Commentary

Assistance may be provided on an issue on which representation is not involved, such as in a situation in which there is a contract for limited scope (unbundled) representation in a case. Assistance may be provided on those issues not included within the limited scope of representation.

- 13. The self-help center should give conspicuous notice that the services are not intended to give one side of a case an advantage over the other, and that no attorney-client relationship exists between the self-help center personnel and the litigant using the center. This notice should include the warning that the absence of an attorney-client relationship means that communications between the litigant and the self-help center attorneys, staff, or volunteers are not privileged and that the self-help center staff may provide services to the other party.**

Commentary

It is important that all litigants be aware that there is no attorney-client relationship established with an attorney at the court self-help center. This notice might, for example, be provided on signs as well as on any intake sheet or basic handout in multiple languages.

- 14. Self-help center staff and volunteers must not make any public comment about a pending or impending proceeding in the court as provided in the canons of judicial ethics.**

Commentary

While there is no attorney-client relationship, and hence no confidential communications between an attorney and litigant, as representatives of the court, self-help center staff and volunteers must not make any public comment about a pending or impending proceeding in the court as provided by Canon 3(B)(9), CJC, Rule 501, SCACR, as applied by Canon 3(C)(2), CJC, Rule 501, SCACR. All staff who provide services to self-help center users should be provided with a copy of that section and be required to sign an acknowledgment that he or she was aware of its provisions.

- 15. The court self-help center should provide a basic group of core self-help services and make available a list of those services to the public. It should review the types of services it offers to assess effectiveness no less than once per year.**

Commentary

Each court self-help center should determine which methods of providing services its staff will use to meet the needs of the litigants in the areas it serves and should annually assess the effectiveness of those methods. For example:

- Providing assistance with paperwork might take a variety of forms such as conducting workshops, offering individualized personal assistance, distributing

sample completed forms with detailed instructions and informational pamphlets, document assembly, and interactive websites;

- Providing information might occur in person or through the use of telephone help lines, videoconferenced workshops, web chat, and e-mail and mail inquiries; and
- Preparation of orders might occur in courtrooms or at the courthouse at the time that self-represented litigant calendars are held.

16. A court self-help center may not create documents for litigants that require strategic decision-making on behalf of litigants by self-help center staff or are designed to promote one side of a case over the other.

Commentary

Because points and authorities, for example, require the court employee to assist litigants with strategic decisions, and thus compromise the court's neutrality, self-help centers may prepare only standardized, boilerplate, fillable form points and authorities that can be used by self-represented litigants.

17. Self-help centers should assist litigants to the extent possible whether or not the litigants live in the county where the self-help center is located or have a case in that court.

Commentary

While it is often important to review a case file of a litigant in order to provide helpful information, litigants should be provided service to the extent possible even if their case is not pending in the county or is not in the county where they present for service. Center staff may provide basic information and guidance on how to obtain necessary information about any underlying case. Forms may be prepared with a referral to the self-help center in the county of filing for any guidance with local forms and procedures.

Language

18. To the extent possible, services should be available in the primary languages of the user population. The self-help center should develop a plan for users who may need services in a language in which staff is not fluent, including American Sign Language. Using resources available within the community as well as contract translation services should be explored.

Commentary

The self-help center will need a plan for addressing the needs of limited-English speakers, including monolingual Spanish speakers and other language speakers representing more than 20 percent of the total county population according to the U.S. Census or other reliable demographic data source.

Data Collection and Evaluation

- 19. To ensure efficient and effective use of resources, the self-help center should regularly evaluate the services it provides and collect statistics on the demographics served.**

Commentary

The self-help center should evaluate its services to ensure that they are of high quality and effectively communicate pertinent information and that users are satisfied with the assistance from and their experiences at the center. Court-based self-help centers should have customer satisfaction surveys available so the staff can determine usability of services and community needs.

The self-help center should record data that includes the types of cases self-represented litigants bring to the center, types of services provided, the number of persons served, and demographic information about those persons. The self-help center should also collect information about staff and volunteer activities and the time devoted to those activities. In order to facilitate evaluation of the centers and protect the privacy of individual respondents, individual responses collected as part of an evaluation of a self-help center should be used only internally. Public reports should use only aggregate data and evaluation results.

STAFFING

- 20. Staff need not always be present when the court self-help center is open to the public. A schedule of when staff will be present and in what capacity they will be able to assist self-represented litigants should be posted.**

- 21. A self-help attorney must oversee the legal work of nonattorney staff who provide direct legal information.**

Commentary

Attorney oversight of nonattorney work is critical to ensure that the legal information given to the public is accurate and up to date and that the conduct of all staff meets relevant codes of professional conduct.

Attorney oversight also is essential to the process of developing effective case assessment protocols and spotting legal issues that require assistance beyond the scope of that available at the self-help center. This is critical for the protection of the public and the court. Cases that should be referred for attorney representation should not be overlooked because of the inability of staff to spot important legal issues. While nonattorney staff members may have a great deal of knowledge and skill, it is usually acquired through on-the-job experience that is limited to situations that they have personally encountered in their work. Nonattorney staff members may gain practical experience at spotting issues, but training as an attorney is generally necessary to recognize all of the legal issues involved in a particular matter. The combination of experienced attorneys working together with experienced nonattorney staff is clearly the best approach to providing appropriate high quality services.

Oversight of Nonattorney Staff

22. The managing attorney should be responsible for the oversight of all the legal assistance and education provided to the public.

Commentary

Oversight over legal content, quality, workload, and professional conduct may not be delegated to nonattorneys.

- Attorneys should be allotted sufficient time to direct the legal functions and train nonattorney staff members to ensure high levels of competence and professionalism; and
- All self-help center staff members, including attorneys and court volunteers, should be provided training on how to best provide service to the diverse individuals who seek assistance from the center.

Oversight of nonlegal personnel matters may be, but need not be, the responsibility of the managing, or other staff attorneys.

Self-Help Center Managing Attorney

23. The managing attorney should work on self-help center business during the times it provides services to the public.

Commentary

A self-help center managing attorney needs intimate knowledge and experience with the daily operations of the self-help center. A managing attorney who meets the qualifications for the position but does not have firsthand knowledge of the types of services provided and the legal needs of the community served by the court serves is far from optimal. For example, making a research attorney or other court staff attorney the manager of the self-help center yet not requiring that he or she work there regularly is not an effective plan for providing high-quality, efficient services.

The managing attorney does not need to provide direct services to the public at all times the self-help center is open, but that person's time should be dedicated to self-help center duties, such as administrative tasks.

Volunteers

24. If self-help centers choose to use volunteers, protocols should be developed to provide for their screening and training. Self-help center staff attorneys must provide oversight of volunteers, and their work should routinely be evaluated by the managing attorney.

Commentary

It is critical that all work in the self-help center be of high quality and that the neutrality of the court be preserved. All assistance, whether provided by staff or volunteers, should be overseen and reviewed regularly by the managing attorney.

Volunteers should not provide direct services to the public unless they have been screened and trained according to the protocol established for volunteers working in the self-help center.

Volunteers at the self-help center should be clearly identified so that the public can distinguish between self-help center staff members and volunteers.

Training should include information on providing neutral information in a court setting, appropriate referrals, and scope of service.

Volunteers must not take any individuals they have assisted at the court self-help center as clients in any private practice or other business enterprise such as legal document assistance offices.

The ethical rules set out in these guidelines should be reviewed and discussed with volunteers. Courts should also receive a signed acknowledgement of the ethical rules from the volunteer.

Equipment and Technology

Research Materials

- 25. Self-help center staff should be provided with access to legal research materials such as relevant current South Carolina codes and subject matter practice manuals, wherever possible.**

Commentary

It is important that the information provided in self-help centers be as up to date and accurate as is feasible. Given the complexity of matters that can come before the court, it is often important to look up an infrequently used code section or refer to a practice guide.

Ethics

- 26. All attorney and nonattorney staff members and volunteers working within a court-based self-help center must be aware of and comply with ethical guidelines. The self-help center management should provide regular training on ethical guidelines.**

Commentary

Court self-help center staff should attend all mandated ethical trainings for court staff provided in their courts. In addition, the self-help center managing attorney should ensure that additional training is provided that addresses functional issues that may arise, such as questions about how these ethical rules relate to the South Carolina Rules of Professional Conduct.

Ethical Guidelines for Court Self-Help Centers

27. The following guidelines must be adopted within each center and made known to all staff and volunteers.

- (A) **Independence and integrity.** All attorneys and staff members who work in a court-based self-help center must at all times uphold the independence and integrity of the center or office.
- (B) **Role as representative of the court.** All attorneys and staff members who work in a court-based self-help center must recognize that they are, and will be perceived by the public as, representatives of the court and, as such, must at all times avoid engaging in conduct that creates an appearance of impropriety. Even when a self-help center is operated by an entity other than the court and has clearly identified itself as separate from the court, the association with the court will be apparent to the public.
- (C) **Impartiality and diligence.** All attorneys and staff members who work in a court-based self-help center must perform their duties impartially and diligently. Impartiality means delivering services in a neutral manner. Diligence requires that the attorney provide the litigants with pertinent information to allow them to bring their matter before the court. This may include appropriate referrals to other resources as well as direct information and assistance at the center or office. The attorney must require similar conduct of all personnel.
- (D) **Respect and patience.** All attorneys and staff working in a court-based self-help center must be aware of the social and economic differences that exist among litigants and treat users of the center with patience and respect. The attorney must require similar conduct of all personnel. However, if a litigant becomes unruly, disruptive, violent, or harasses center staff, the attorney may ask the litigant to leave the center or office.
- (E) **Bias and prejudice.** All attorneys and staff working in a court-based self-help center must assist litigants who seek assistance without exhibiting bias or prejudice based on race, sex, religion, national origin, English proficiency, disability, age, sexual orientation, or other similar factors, and must require unbiased conduct of all personnel.
- (F) **Competent legal information.** All attorneys and staff working in a court-based self-help center must provide the litigants who seek assistance with procedural and legal information and education so that the litigants will have increased access to the court. Court-based self-help centers are not intended to replace private counsel.
- (G) **Full notification of limits of service.** All attorneys and staff working in a court-based self-help center must ensure that conspicuous notice is given that no attorney-client relationship exists between the center or office, or its staff, and the user of the self-help center. The notice must include the admonition that the absence of an attorney-client relationship means that communications between the user of the self-help center and the self-help center are not privileged and that the services may be provided to the other party.

- (H) **Public comment.** All attorneys and staff working in a court-based self-help center must not make any public comment about the litigants or about any pending or impending matter in the court as provided by paragraph Canon 3(B)(9), CJC, Rule 501, SCACR, as applied by Canon 3(C)(2), CJC, Rule 501, SCACR. All persons employed in a court-based self-help center must be provided with a copy of these portions of the Code and be required to sign an acknowledgement that they have read and are aware of its provisions.
- (I) **Gifts or payments.** All attorneys and staff working in a court-based self-help center must not accept anything of value in the form of gifts, favors, bequests, or loans from the litigants whom they assist, since this may give the appearance of impropriety or partiality.
- (J) **Communications with bench officers.** All attorneys and staff members working in a court-based self-help center must avoid all ex parte communications with a judge. Communications about purely procedural matters or the functioning of the court are allowed and encouraged.
- (K) **Communications with represented litigants.** Attorneys and staff working in a court-based self-help center must not provide assistance on any issue in which they have knowledge that an attorney actively represents a litigant. This does not prohibit assistance on how to file a substitution of attorney, or respond to a request to be relieved as counsel.
- (L) **Volunteering in a self-help center.** Attorneys volunteering at a court-based self-help center must comply with the following rules:
1. Volunteer attorneys must comply with the ethical guidelines set out for attorneys and staff working in court-based self-help centers.
 2. Volunteer attorneys must not distribute business cards or otherwise solicit or accept clients from their work at the self-help centers.
 3. Volunteer attorneys must not refer litigants to any particular attorney for representation. All referrals for representation or other services must be to an office or entity approved within the referral protocol established by the center.