ACCESS

Handbook for the San Francisco Superior Court ACCESS Volunteers

Thank you for choosing to volunteer at the ACCESS Center, a program of the San Francisco Superior Court. We are excited to have you join us to help inform and serve our community. Your commitment of time and energy is greatly appreciated and will have an important and meaningful impact on those we serve.

ACCESS is a free walk-in service created to help people help themselves. We are funded by the Judicial Council, the governing body of the California courts, and presided over by the Chief Justice of the California Supreme Court, Ronald M. George. The Center does not provide legal advice or representation. We provide information on a variety of legal issues, and are a resource center with information, books, and staff available to guide an individual through the judicial process.

As a volunteer, you will be working directly with people. This handbook includes information on the operations and procedures of the Center and the Court, as well as important general guidelines for volunteers. It will also give you a better understanding of the Center's mission and philosophy of helping people to help themselves.

We hope you find this handbook helpful. In addition, our staff is available to answer any questions you may have. We look forward to working together with you, and we know you will find this to be a valuable and rewarding volunteer experience.

What Is ACCESS?

ACCESS stands for *Assisting Court Customers with Educational and Self-help Services.* It is staffed by two attorneys, a court clerk, and volunteers (law students, college students, paralegals, attorneys, etc). ACCESS is based at the Civic Center Courthouse, in Room 208. Its mission is to assist self-represented litigants to navigate through the legal system, and to provide access to San Francisco's multi-cultural, multi-lingual population, with a focus on providing services in Spanish, Chinese, Russian, Tagalog and Vietnamese. Currently, about 63% of ACCESS customers are primarily English speakers. 37% are more comfortable speaking a language other than English.

ACCESS provides legal assistance with:

- Small Claims
- Civil Harassment Restraining Orders
- Evictions
- Guardianships
- Name Changes and Gender Changes
- Miscellaneous civil issues

It also has a library of self-help books and practice guides covering other issues, and often assists litigants with general civil litigation issues.

As an ACCESS volunteer, you will come into contact with judges, court clerks, courtrooms and court proceedings, and will get to know the how the court operates. You will be working with litigants with real legal issues as they face the court system. It will provide you with the unique opportunity to not only make sense of the abstract theories you learn in law school, but also to become exposed to different areas of the law.

GUIDE FOR HELPING SELF-REPRESENTED LITIGANTS TO HELP THEMSELVES

I. We are here to help people help themselves.

One of the most difficult challenges we face is providing self-represented litigants with the vital information they need without rendering "legal advice". As representatives of the Center, we must remain mindful of our absolute duty of impartiality. We must not give information or advice for the purpose of giving one party an advantage over another. We must not give information to one party that we would not give to another party.

Advising a party of what to do, as opposed to how to do what the party desires to do crosses the impartiality line. Communications and explanations should always be rendered in an impartial manner, so as not to advantage or disadvantage any litigant. We are here to give guidance. We cannot give legal advice of the type provided by private legal counsel.

Often it is difficult to tell the difference, and know where to draw the line. If a person is asking whether they "should" do something, we cannot answer the question for them. If they are asking if they "could" do something, we can instruct them how. A "should I?" question involves making decisions about options, and strategizing about the options and potential outcomes. This is the sole realm of private legal counsel, which we cannot, and must not provide. Once a person knows his or her options, and has made an informed decision, we can assist with the procedure in navigating the court system.

The following guidelines may help in differentiating between providing "legal advice" and "legal information".

Information we CAN provide:

- Information contained in docket reports, case files, case management systems.
- Answers to questions concerning court rules, procedures, and ordinary practices. These questions are frequently phrased as "Can I..." or "How do I..."
- Examples of forms or pleadings to help guide litigants.
- Answers to questions about completing forms.
- Explanations as to the meaning of terms and documents used in the court process.
- Answers to questions concerning the computation of deadlines or due dates.

Information we CANNOT provide:

- Information we are unsure about.
- Advising a litigant whether to take a particular course of action. Questions phrased as "should I..." must be referred to private legal counsel, or we can direct people to various books in the law library or at the ACCESS Center where they can read about the law and form their own opinion.
- Giving an opinion about the outcome of a case (e.g. giving an opinion to a litigant asks how good their case is or offering your view on a litigant's matter by saying "Looks like you have a great case!")
- Taking sides in a case or proceeding pending before the court.
- Information to one party that we would be unwilling or unable to provide to all parties.
- Disclosing the outcome of a matter submitted to a judge for decision, until the outcome is made public, or the judge directs disclosure of the matter.

Here are some examples:

1. A person comes to the center asking whether he or she can appeal a decision in the small claims court. We can answer the question by providing information about who can appeal a small claims judgment, and the time period for filing the appeal. We can explain that an appeal in small claims will result in a new trial (as opposed to appeals where the appellate judge or justices will be limited to the record in the lower court).

   The person then asks whether he or she should file the appeal, wanting to know his or her chance for success. We cannot answer whether the person should file the appeal, nor can we estimate the chance for success. We can explain the burden of proof, and the standards used. We can also emphasize those factors which may be considered in evaluating the merit of an appeal. We can certainly refer the person to available legal services, such as the Lawyer Referral Service, where one can consult with an attorney for a low fixed fee, and we can refer the person to books and materials here in the center, and in the law library, where he or she can research the law applicable to his or her case.

2. It is Tuesday afternoon. A person comes to the Center asking whether he or she can stop an eviction. You look at the paperwork and see that a default judgment was entered in the case, and that a Writ of Execution indicates the sheriff will perform a lockout on Wednesday morning at 10 a.m. You need to explain to the person that the only way to stop the eviction is with a court order. To get a court order, one must bring an ex parte motion to vacate the default judgment and stay its execution. To bring an ex parte motion, the moving papers must be filed by noon the court day before the hearing, and at least 25 hour notice must be given to the other side. There is no time to get a court order, even if the facts were there to justify granting the motion. If they believe service was improper, and the landlord falsified papers to complete the eviction without due process, perhaps the only recourse for the tenant, at this late stage, is to bring a separate action against the landlord for damages after the tenant

has moved. Before bringing such an action, the tenant must either consult with an attorney about the propriety of bringing such a case, or research the law carefully before proceeding to file an action against the landlord. We can refer the tenant to our books and practice guides on the subject of landlord/tenant law.

3. If we change the example above, to have a lockout order scheduled for one week away, instead of the next business day, the tenant has the time to bring an ex parte motion to stay the eviction and a motion to set aside the default. The question then becomes, should the tenant bring the motion? As previously stated, we cannot answer "should I?" questions. However, the process of bringing a motion to vacate a default judgment is complicated even for attorneys, and a showing of good cause is required to get a court order vacating a default judgment. We can explain to the tenant the burden he or she must meet to establish good cause for not timely answering the complaint. We can also point out that the court may consider whether the tenant would have a valid defense to the unlawful detainer action, if the default were to be set aside. We can suggest the tenant research the case law found in the annotation to Code of Civil Procedure section 473, which allows for possible relief from a judgment based on mistake, inadvertence, surprise or excusable neglect, to see if appellate courts granted relief to a party under similar factual circumstances. We cannot tell the tenant whether he or she should proceed with the motion. If the tenant decides to proceed, we can explain the filing and notice requirements for a motion, the components of the motion which include a notice of motion, a memorandum of points and authorities citing the legal authority for the motion, and a factual declaration under penalty of perjury establishing good cause for requesting the relief sought.

II. Helping people to conduct their own legal research.

We can show people how to look up a code section, and explain to them the difference between case and statutory law. We can show people how a case is written, beginning with a summary of the facts of the case, then a legal analysis, followed by a conclusion or finding. We have code books for the areas in which we assist litigants, as well as practice guides to assist them with their research.

We also have a number of Nolo Press books available in the Center. Nolo books are intended for people who do not have an attorney and are trying to handle a case on their own. These books are also available in the law library behind the reference desk. If people want to copy the materials in the Nolo Press books they can do so in the law library. Nolo Press books are also widely available in book stores since they are written for the general public, not the legal profession. Unlike law books, Nolo Press books are affordable for those who wish to purchase a book.

III. Referring people to other community resources.

We can refer to other community resources. The Center has a list of agencies we commonly refer customers to, as well as brochures from many of these agencies.

Most often, people will ask for a referral to an attorney. The San Francisco Bar Association has a Lawyer Referral Service (LRS) and a Volunteer Legal Services Program (VLSP). These services will benefit many people who need some legal guidance, but cannot afford to hire an attorney to handle an entire case. The LRS charges a fee of $25.00 for a thirty minute consultation with an attorney in a specified field. The attorney donates his or her time for the thirty minute consultation. If the attorney is hired for services or consultation beyond the initial thirty minutes, the client must pay his or her regular hourly rate. It is important to stress when referring people to the LRS that they tell the receptionist what type of lawyer they need. We need to remind people that many lawyers practice in limited fields, and a lawyer who does divorces, for example, may not know what to do about a boundary dispute between two neighbors.

For questions about family law matters, we can refer people to the Family Law Self-Help Center, which is also located in the Civic Center Courthouse. We have flyers in English and Spanish on this program.

IV. Public Education

Most people coming to court wish they were not here. We will probably not make their court experience enjoyable, unless they are perhaps getting married or adopting a child, but we can make the experience less frightening and more understandable. We will not have all the answers people want, but we can always treat them with respect. By explaining due process, the rule of law, and the reasons we have procedures which they may view as unnecessarily complicated, we can do much to educate the public about our judicial system, and the valid reasons for the complexities they encounter. In so doing, we will hopefully engender greater respect for our democratic institutions, our legal system, and the rule of law.

BASIC RULES FOR WORKING AT THE ACCESS CENTER

1. Do not solicit business from the people using the ACCESS Center. Attorneys, paralegals or students who volunteer at the ACCESS Center may be asked for business cards from those whom they are assisting. It is very important that you do not give people your business card or refer them to any one particular attorney while at the ACCESS Center. We can refer people to the Lawyer Referral Service, or other non-profit legal services organizations, but not to private attorneys or firms.

2. Make sure everyone signs the sign-in sheet, with the disclosure, before you assist them. The sign-in sheet has important disclosures about the type of services we provide. It is essential that everyone sign in before we provide information or assistance on their case. We also ask that every customer complete an intake form. This form asks for other information which is optional, although we encourage people to complete the form so we can know the types of matters presented at the ACCESS Center to assist us to secure future funding.

3. Make sure that all the work that you help a litigant with is reviewed by one of the center's attorneys, even if you only helped with a minor part of the paperwork.

4. Request each person who has received help to complete an evaluation form. We ask persons to evaluate our services so we know how we can improve the center. We have evaluation forms in English and Spanish.

5. Do not make estimates about the outcome of motions or other matters pending before the court. Many times people will ask what their chance of prevailing on a case may be, or they might ask about the other side's chances of prevailing. We should never estimate the chances for failure or success. We can explain the showing the court requires to grant, for example, a motion for relief from default, but we cannot state what the likely outcome will be. Doing so goes beyond providing legal information, but borders on advocacy which is solely within the realm of private counsel.

6. Do not gossip or discuss what you may know about a person or case with people using the ACCESS Center. You may personally know someone involved in a case, or may be asked personal questions by people using the center about others involved in their case. Do not discuss or share your personal knowledge of other people with members of the public who use the center. It compromises the center's impartiality, and detracts from the professionalism of the center.

7. Do not be afraid to tell people you do not know the answer. Many times we will be asked questions to which we do not know the answer. It is best to be honest with people and tell them we do not know. We should, however, try to find the answer. Sometimes we can call a court clerk, or another agency, to get the answer while the person waits. Other times we will have to wait until someone gets back to us before we can get the information we need. Still other times we might have to research the answer ourselves. In cases such as these, you can ask him or her to come back in a few days.

8. Make sure you are referring the person to the correct place before sending him or her there. There is nothing worse than being shuffled from one place to the other. We

should not be adding to people's frustration by sending them to the wrong place. Make sure you understand what the person needs, or where they have to go, as well as the guidelines of the agency you are referring them to, before sending them there.

9. The ACCESS Center works on a drop-in basis and does not provide information over the phone. In order to serve persons coming in the door, we cannot also be helping over the phone. Also, it is important to see what papers people have been served with in order to know the type of response they need to file. Often people give inaccurate descriptions over the phone, which can result in our giving incorrect information. It is always prudent to look at a person's papers before determining which forms they need to obtain. Finally, it is necessary for people to read and sign the sign in sheet with the disclosure statement before we discuss their case with them, so they understand that we are not providing confidential consultations or legal advice.

10. Dress appropriately. You do not need to wear a suit, but keep in mind that you are representing the center, as well as the Court, and should dress in a professional matter.

11. Treat everyone with respect. Many of the people coming to the center will be irritable and frustrated because they have already been to different agencies or departments and did not receive the information they needed. Others will be frustrated because they discover they are unable to accomplish what they are trying to do, or because we are not able to help them. Even though we may not be able to tell people what they want to hear, we can always treat them with respect.

    Sometimes people have disabilities which make it difficult for them to speak, or be understood. It may take time to listen to them before you will understand what they are trying to say. Try to be patient, and let people express themselves. However, you can help direct the conversation by asking key questions so the person will be able to get to the point, and provide the information you need to assist him or her.

12. Ask people to take their children to the Child Care Center whenever possible. Children often get restless in the ACCESS Center, and can easily damage equipment or materials if they are not supervised. Also, on some occasions, it is not appropriate for children to be exposed to the issues you must discuss with their parent. The San Francisco courthouse has a free child care center for its customers located in the first floor. There are licensed providers, toys, games, etc for children as young as 6 months old and as old as 15. It is free.

THANKS FOR HELPING US HELP OTHERS!