



ILLINOIS JUDICIAL BRANCH

Bench Card: Self-Represented People in the Courtroom

Jan. 2023 v. 3

Illinois Judicial Code of Conduct 2023

RULE 2.2 IMPARTIALITY & FAIRNESS: A judge shall uphold and apply the law and shall perform all duties of judicial office fairly and impartially. COMMENT [4] It is not a violation of this Rule for a judge to make reasonable accommodations, consistent with law and court rules, to ensure *pro se* litigants the opportunity to have their matters fairly heard.

RULE 2.6: ENSURING THE RIGHT TO BE HEARD: A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to the law.

Tips to ensure all court users are fairly heard:

1. Use simple, plain language; avoid legal jargon; and explain legal concepts.
2. Explain all court processes (including evidentiary and foundational requirements) and what will happen in court.
3. Ask court users what questions they have and check for understanding throughout court proceedings.
4. Ask neutral questions for clarification or to focus the proceedings and consider modifying the traditional order of taking evidence.
5. Explain why you are doing something and your basis for decisions and rulings.
6. Remember procedural fairness principles: voice, neutrality, respect, trust, understanding, and helpfulness.
7. Recognize that self-represented court users may be scared and nervous.
8. Be courteous, patient, and an active listener to ease tension.
9. Use certified interpreters for limited English proficient or hearing-impaired court users.
10. Appreciate your unconscious biases and increase your cultural competence.
11. Liberally construe pleadings: look to the substance of a pleading rather than its title.
12. Provide self-represented court users with checklists, handouts, and other resources or referrals.

1. Plain Language

The Supreme Court adopted a Policy on Plain Language that states "All informational documents and informational instructions shall be drafted in plain language whenever practicable. There are times that legal terms may be necessary in informational documents and/or informational instructions and should continue to be used; in those cases, judges...should provide plain language definitions of those legal terms."

2. Explain Court Process

Many self-represented court users have no understanding of court processes. You should ensure that they have a basic understanding of processes for the day they are in court and for the entire case. When explaining processes, you can do so in the same way that you explain them to a jury. You may wish to provide explanations of substantive and procedural matters at the beginning of court and post helpful signage around the courtroom to identify staff and document basic procedures (e.g., turn off cell phones).

3. Check for Understanding

At every court appearance, ask self-represented court users if they have questions and if they understand what happened. Consider asking them to summarize what they think happened and what they need to do next. Provide detailed written court orders, checklists, or instruction sheets to take with them.

4. Ask Questions & Consider Modifying Process

Ask open-ended questions to elicit general information and obtain clarification from parties or witnesses. Explain why you are asking questions and that your questions do not indicate your opinion of the case. Consider modifying the order of court proceedings as a way to focus on material matters and elicit relevant information more efficiently.

5. Explain What You're Doing

Explain why you are doing something (like looking at your computer to read a pleading or calling cases in an order that permits interpreters or lawyers to get to other courtrooms) to avoid implying disinterest or bias. Explain your rulings, particularly on the admissibility of evidence.

All materials referenced in this bench card, as well as sample resources and referral sheets, can be found at: ilcourts.info/allATJ

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6. Procedural Fairness

Research shows that higher perceptions of procedural fairness lead to better acceptance of court decisions and compliance with orders. The elements are:

- **Voice:** all court users are able to be heard
- **Neutrality:** consistent treatment & unbiased decisions
- **Respect:** court users are treated with courtesy & respect
- **Trust:** judge perceived as sincere and caring
- **Understanding:** court users understand procedure, decisions, and how decisions are made
- **Helpfulness:** staff perceived as interested and helpful

7. Self-Represented People are Stressed

Although the cases you hear may be routine for you, they are of the utmost importance to the people involved. Court is confusing and the stakes can be high. To ease anxiety or tension a judge may: call a recess to allow a person to calm down; provide people with an opportunity to leave the courtroom or have a glass of water; and consider safety in the placement of parties and witnesses in relation to each other in the courtroom.

8. Active Listening & Patience

Some ways to further ease tension for all court users are by smiling and actively listening (make eye contact, nod, stop other work). Introduce yourself and greet all parties by name. Many self-represented people report feeling ignored when judges appear friendly with lawyers, but not with them. Things might take longer when self-represented people are involved and, generally, that is ok. Also, they may be late or miss court dates due to transportation, employment, or childcare challenges. Be patient in hearing their explanations. Offer remote appearances under SCR 45 for status dates to avoid these issues.

9. Language Access

In both civil and criminal proceedings, limited English proficient or hearing-impaired litigants are entitled to court-provided interpreters. See 735 ILCS 5/8-1402-1403, 725 ILCS 140/2, and the Illinois Supreme Court Language Access Policy. A Bench Card on Courtroom Interpreting contains information about how to determine the need for an interpreter and tips for communicating through interpreters.

10. Unconscious Bias & Cultural Competence

Implicit or unconscious bias is a psychological process that influences decision-making without our awareness. Everyone has unconscious biases because that's how our brains work. One way to address discriminatory tendencies is by increasing knowledge and understanding of cultures different than our own. Another technique is paying attention to and appreciating differences. Also, rely more on deliberative decision-making than intuition and impressions and open oneself to positive, counter-stereotypical individuals and attitudes. For more information, see additional materials and a bench card on Achieving Fairness Free of Unconscious Bias.

11. Liberally Construe Pleadings

Self-represented people may use the wrong forms or label pleadings incorrectly. Focus on the content of the documents they present and the issues raised, not on details that may serve mostly as barriers.

12. Resources & Referrals

Judges and all court, library, and clerk staff may provide court users with legal information and referrals. Discuss with your staff their role in providing that information under the Supreme Court Policy on Assistance to Court Patrons ("Safe Harbor Policy"). Most resources and referrals are local, so learn about what is available in your area. Statewide information that may be helpful to self-represented court users includes:

- Illinois Court Help: 833-411-1121, ilcourthelp.gov
- Illinois Legal Aid Online (ILAO): illinoislegalaid.org
- Standard Court Forms: ilcourts.info/forms
- Legal Aid:
 - Illinois Armed Forces Network: 855-452-3526
 - Cook County - CARPLS: 312-738-9200
 - Northern IL - Prairie State: 800-531-7057
 - Southern IL - Land of Lincoln: 877-342-7891
- Referral services: ISBA Lawyer Finder: 800-922-8757 (offers ½ hour attorney consultation for \$25)

Confirm referral information regularly to make sure the resources are current. If you send court users to another office in the courthouse or community, take time to visit that office so you can give them informed directions on how to get there and guidance on what to expect.