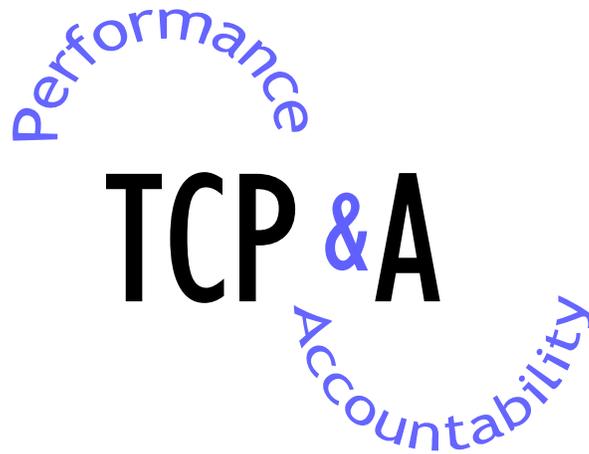


Supreme Court of Florida

Commission on Trial Court Performance and Accountability



Ensuring Access to Justice:

Serving Florida's Self-Represented Litigants

April 2008

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Introduction

Justice in Florida will be accessible, fair, effective, responsive, and accountable.

~ Vision of the Florida Judicial Branch

Of the values embraced in the vision statement of the Florida court system, the first is “access,” meaning “convenient, understandable, timely, and affordable to everyone.”¹ Access to the courts is an explicit right of the people,² guaranteed to all litigants and not reserved to those represented by an attorney. While the elements in the vision statement were not specifically ranked in order of importance, the decision to list “access” first is instructive – without access, realization of the other values is impossible.

Florida courts have demonstrated a strong commitment to ensuring that the people of Florida have access to the best justice system possible. This commitment to access includes efforts aimed at: increasing public knowledge about the role and operations of the courts; improving electronic access to court records; ensuring easy access to court facilities to increase compliance with the Americans with Disabilities Act of 1990; facilitating access to electronic information and information technology for persons with disabilities; producing understandable forms and documents; and offering appropriate information to court users, including those who are self-represented.

The needs of the self-represented have been well documented over the past 20 years, and most state court systems have accepted responsibility for responding to those needs. Nationally, trial and appellate courts have affirmed their ongoing duty to ensure that self-represented litigants can access and use the courts. Creative solutions for providing in-person assistance, utilizing technology for sharing information about the courts, and employing collaborative strategies with the bar and other justice system partners are plentiful. The benefits to the public and courts are also well documented and include increasing access for litigants, improving effectiveness and efficiency of court services, and

¹ *Taking Bearings, Setting Course*, The Long-Range Strategic Plan for the Florida Judicial Branch, June 1998.

² The Declaration of Rights, Article I of the Florida Constitution, provides that the “courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.”

enhancing public trust and confidence in the court system. According to the National Center for State Courts, at least seven chief justices have mentioned the importance of the self-represented litigant in their State of the Judiciary addresses between mid-2006 and mid-2007. Also, the issue was the subject of a Joint Resolution of the Conference of Chief Justices and the Conference of State Court Administrators in the summer of 2007.³

On September 19, 2006, Chief Justice Lewis issued Administrative Order (AO) 06-54, which charged the Commission on Trial Court Performance and Accountability (TCP&A) with various management and monitoring tasks. Specifically, the court mandated that the commission “make recommendations for a court-based service framework that will connect litigants with legal assistance” and “reliably provide the ministerial assistance and procedural information needed to ensure that litigants representing themselves have meaningful access to the civil justice system.”

It is the intent of the TCP&A to address the Supreme Court’s directive and enhance the discussion of the problems facing pro se litigants. Thus, this report accomplishes three objectives: 1) to describe a comprehensive service framework, which identifies and meets the access needs of self-represented litigants in civil cases; 2) to affirm basic principles and assumptions relating to court-based programs for self-represented litigants; and 3) to establish and clarify the roles, responsibilities, and expectations for the private bar, legal service providers, trial courts, and clerks of court. Restoration of pre-Revision 7 programs established pursuant to rule 12.750, Florida Family Law Rules of Procedure (Fla.Fam.L.R.P.), is not the objective. Additionally, it is not the objective of the TCP&A to provide recommendations regarding how the *Self-Help* programs should be implemented, in terms of detailed fiscal or staffing requirements. However, the TCP&A acknowledges the future need to explore the complexities of the day-to-day operations of the *Self-Help* programs to ensure efficient and effective delivery of service.

The judicial branch’s ability to ensure access for self-represented litigants is inextricably linked to the performance of its justice system partners – the 67 elected clerks of

³ *Future Trends in State Courts: Spreading and Adopting Best Practices for Court-Based Programs for the Self-Represented, 2007.*

court, legal service providers, and the private bar. Successful implementation of this comprehensive service framework will require concurrent initiatives. It is imperative that the branch create and implement a program that will provide the access, information, and procedural assistance that all consumers of government services deserve. Judicial system partners should collectively ensure the external capacity, commitment, and connections with legal service providers and the private bar. The TCP&A emphasizes that this effort will require more than a website, a rule change, or administrative order(s); it will require vigilant and systemic governance, including joint efforts at the state and local level. The opportunity and necessity for improving the quality of service for court users, eliminating duplication of effort, and maximizing resources cannot be over-emphasized if Florida is to have a justice system that recognizes and reacts to the challenges faced by pro se litigants.

Background of Court-Based Self-Help Services in Florida

Since 1971, rule 1.080(g), Florida Rules of Civil Procedure (Fla.R.Civ.P.) requires the clerk to serve copies on other parties when papers filed by self-represented litigants do not show such service.

Since their creation in 1972, the Florida Small Claims Rules have provided that the clerk shall provide assistance with papers to be filed in an action.⁴ In 2000, the small claims rules were amended to require the clerk to serve copies on other parties when papers filed by self-represented litigants do not show such service.⁵ Further, the rules specifically direct the court to assist self-represented litigants with courtroom decorum and order of presentation of material evidence.⁶

⁴ Rule 7.050(c), Florida Small Claims Rules (Fla.Sm.Cl.R.), provides: “The clerk shall assist in the preparation of a statement of claim and other papers to be filed in the action at the request of any litigant. The clerk shall not be required to prepare papers on constructive service, substituted service, proceedings supplementary to execution, or discovery procedures.” In re: Amendments to Florida Small Claims Rules, 270 So.2d 729 (Fla. 1972).

⁵ Rule 7.080(f), Fla.Sm.Cl.R., See In re: Amendments to Florida Small Claims Rules, 785 So.2d 401 (Fla.,2000).

⁶ Rule 7.140(e), Fla.Sm.Cl.R., provides: “In an effort to further the proceedings and in the interest of securing substantial justice, the court shall assist any party not represented by an attorney on: (1) courtroom decorum;

In 1984, the Florida Legislature amended the Laws of Florida in regard to domestic violence cases, stating that “the clerk of the court shall provide a copy of this section, simplified forms, and clerical assistance for the preparation and filing of a **petition by any victim** not represented by counsel.”⁷ [emphasis added] Chapter 741.30(2)(c)1-5, Florida Statutes, now provides that the clerk shall: assist petitioners seeking injunctions for protection against domestic violence and enforcement for a violation; provide simplified forms; ensure the petitioner’s privacy to the extent practical while completing the forms; provide petitioners with certified copies of the injunction order and inform them of the process for service and enforcement. Clerks must also receive training in the effective assistance of petitioners. The repeat/sexual/dating violence statute has similar provisions relating to clerks’ assistance to the petitioner.⁸

Rule 12.610, Florida Family Law Rules of Procedure provides further direction to the clerks of court and family or domestic/repeat/dating violence intake personnel, which may include the court’s staff, regarding assistance for petitioners in these cases.

In 1995, the Supreme Court adopted separate rules for family law cases. In doing so, the court specifically addressed concerns that, as proposed, their complexity would discourage pro bono representation and adversely affect the ever increasing number of pro se litigants in family law cases. The Court extensively redrafted the proposed rules to “eliminate as much complexity as possible” and to include simplified forms and instructional commentary and appendices.⁹ The Court also asked the Family Courts Steering Committee to “review these rules, forms, and appendices and to make recommendations to this Court,

and (2) order of presentation of material evidence. The court may not instruct any party not represented by an attorney on accepted rules of law. The court shall not act as an advocate for a party.” In re: Amendments to Florida Small Claims Rules, 682 So.2d 1075 (Oct. 12, 2000).

However, as originally adopted, this rule provided that: “the court shall assist any party not represented by an attorney on: (1) Procedure to be followed, (2) Presentation of material evidence, (3) Questions of law.” 270 So.2d 729 (Fla. 1972).

⁷ Chapter 84-343, Laws of Florida.

⁸ Chapter 784.046(3)(a), Florida Statutes.

⁹ See In re: Family Law Rules of Procedure, (Fla. 1995). 663 So.2d 1047 at 1048.

with particular emphasis on revisions to further simplify the family law process for the many pro se litigants in family law cases.”¹⁰

In 1996, then Chief Justice Kogan called upon the Family Court Steering Committee to make recommendations as to how the courts could help “self-represented litigants access the family courts through the use of standardized simplified forms, self-help centers, technological innovations, and other mechanisms, as appropriate.”¹¹ In 2001, the Supreme Court subsequently endorsed the committee’s recommendations that “court services should be available to litigants at a reasonable cost and accessible without economic discrimination” and that self-help programs are an essential element to the successful function of a model family court.¹² The committee continued work on over 500 pages of family law forms and instructions; developed a court rule¹³ authorizing circuit family law self-help programs and providing guidance as to permissible activities; and supported the creation of the “unbundled” legal services rule.¹⁴ In addition, the creation of the Family Courts Trust Fund¹⁵ enabled many circuits to initiate limited family self-help intake and case management programs and funded an attorney position within the Office of the State Courts Administrator to provide ongoing support for efforts relating to the forms and instructions.

Soon after the voters’ adoption of Revision 7, the branch devoted its energies unwaveringly to the constitutional amendment, which had an implementation deadline of July 2004. While the transition from county to state funding mandated by Revision 7 was mostly successful in improving the quality and consistency of trial court services, two areas exhibited notable deficiencies. The first involved the process for the appointment and payment of counsel for indigent defendants in public defender conflict cases and certain civil cases. The second deficiency resulted from the lack of a common framework for addressing

¹⁰ See *In re: Family Law Rules of Procedure*, (Fla. 1995), 663 So.2d 1049 at 1053.

¹¹ *In re: Family Court Steering Committee*, Administrative Order dated August 22, 1996.

¹² *In re Report of the Family Court Steering Committee*, 794 So.2d, 518 at 522, 526 (Fla. 2001).

¹³ 12.750, Fla.Fam.L.R.P.

¹⁴ 12.040, Fla.Fam.L.R.P.

¹⁵ The trust fund was created in 1994, Section 25.388, F.S.

the general and specific access needs of self-represented litigants.¹⁶ Not unlike the defendants who rely on the court-appointed counsel system, pro se litigants demonstrate limited financial means and lack an organized constituency to speak for their needs.

At this time, court-based services to ensure that the public can access and use the courts are not uniformly available to similarly-situated litigants throughout the state. A 2006 legislative staff project report on the unified family court model noted that the transfer of litigant intake from court administration to the clerks' office impedes circuits' efforts at implementing the self-help component of the Court's 2001 recommendation and suggested that the Legislature may wish to statutorily provide authority for local agreements within a circuit for provision of pro se services.¹⁷ *Justice for All Floridians* – the promise of Revision 7 – requires that courts extend meaningful and equal access to people without the benefit of legal counsel. The unified state court system envisioned by the people of Florida has not been realized for the self-represented.

In January 2006, then Chief Justice Barbara Pariente convened a focus group consisting of 31 people, including trial and appellate judges, clerks, court administration staff, lawyers, and other justice system partners, to re-direct attention to services for pro se litigants. This meeting gave rise to an action report and recommendations. Following the issuance of AO 06-54 in September 2006, the Honorable Alice L. Blackwell, chair of the TCP&A, established a workgroup, chaired by then Chief Judge Robert B. Bennett, Twelfth Judicial Circuit, to develop recommendations for a court-based service framework for civil pro se litigants.

¹⁶ It is also instructive that both court-appointed counsel and self-help services emerged from the Revision 7 transition with operational responsibilities shared between the courts and other entities. Court-appointed counsel services were organized around the circuit Article V Indigent Services Committees and the Justice Administrative Commission, with support services provided by trial court staff. Intake and ministerial assistance for self-represented litigants were to be provided by the 67 elected clerk of court offices.

¹⁷ *Implementation of the Unified Family Court Model*, Committee on Judiciary, The Florida Senate, Interim Project Report 2007-133, (November 2006).

A Comprehensive Service Framework

Court-based services for self-represented litigants should be provided within a framework that includes self-help services provided through a court-based program and legal services properly provided by other entities.

The purpose of a court-based *Self-Help* program should be to: 1) connect litigants with legal services, where possible; and 2) provide access, information, resources, and procedural assistance to litigants representing themselves. For the purposes of this framework, a *court-based program* is funded by the clerk and the court and is staffed by both clerk of court employees and court employees.

Court services for self-represented litigants need not and should not be in competition with legal services provided by the bar. While the right of access and self-representation applies to all litigants, a court-based program should be planned in accordance with case types where litigants typically represent themselves. The Commission recommends that **petitioners** and **respondents** in **original actions, modifications** and **enforcement** of the following types of cases, within circuit and county courts, be included in the *Self-Help* program, within available resources:

Circuit Court

- dissolution of marriage
- annulment
- paternity
- temporary custody by family member
- emancipation of a minor
- guardianship
- child support, including Department of Revenue cases
- probate
- adoption
- foreclosures
- parental notification of abortion
- circuit writs
- foreign decrees
- appeals from county court
- injunctions for protection against violence
- appeals to district court
- change of name
- challenge to clerk determination of non-indigence

County Court

- county civil, including contractor claims/mechanics liens
- small claims
- landlord tenant/eviction
- civil traffic appeals
- garnishments
- enforcement of judgments
- challenge to clerk determination of non-indigence

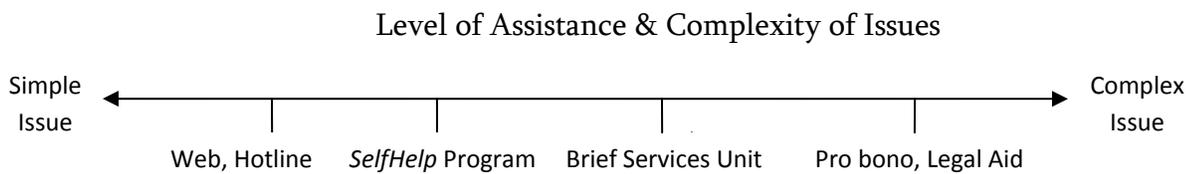
The Commission recognizes that court-based services for litigants in county criminal, and other criminal cases, will need to be addressed in the future. Additionally, issues of prisoner litigation and post-conviction filings, such as 3.850 Motions and Habeas petitions, are fundamentally unique and will require a nuanced approach that is currently under review by the Post-Conviction Relief Subcommittee of the Criminal Court Steering Committee. As a result, these issues are not addressed as a part of the court-based *Self-Help* program described in this report.

Many state and local court systems have developed impressively comprehensive programs that operate almost entirely within their court systems; others rely almost exclusively on the bar and external entities to address the many needs of self-represented litigants. The Self-Represented Litigation Network published a 2006 report that lists 41 best practices for planning and improvement for such programs. Their recommendations are grouped into eight areas: self-help offices and services; forms, document assembly and e-filing; practices in the courtroom; discrete services, pro bono and volunteer programs; judicial ethics and training; post-order practices; court management and evaluation practices; and jurisdiction-wide strategic practices.¹⁸ The framework suggested in this report, while comprehensive, does not propose that the court system seek to operate a program to meet all the needs of self-represented litigants. Rather it acknowledges the inherent limitations of court-provided services and seeks to maximize services while working within a framework that includes other providers of legal services.

¹⁸ *Best Practices for Court-Based Programs for the Self-Represented, 2006.*

The court-based *Self-Help* program is designed to provide service to the litigants served by courts; however, the success of the program depends on the courts' ability to integrate the efforts of the clerks of court, appropriately balance statewide efforts with local efforts, and build state and community partnerships to provide those civil legal services that cannot be properly provided by the court. The success of the *Self-Help* program relies upon cooperative relationships between the litigant and the court, as well as the court and the surrounding community.

The needs of self-represented litigants present differing levels of complexity; just as judicial cases present differing levels of technical or legal complexity. Court-based programs are most suited to the needs of self-represented litigants with relatively uncomplicated issues and cannot meet all the needs of litigants with complex issues.



The chart above compares the levels of assistance with the complexity of issues presented by the litigant. Web assistance refers to a statewide and local website with user-friendly forms, instructions, and interactive modules to explain court processes. Hotline assistance is a court-operated telephone number for brief basic information or process questions and the legal aid operated hotline for brief legal advice and intake for the Brief Services Unit. The *Self-Help* Program (i.e., case managers and clerk staff) is the in-person case management and ministerial self-help services provided at each courthouse. Services include providing forms and instructions, printed educational materials, appropriate legal information, clinics or workshops, and review of completed forms before filing. To ensure accountability and efficacy, the *Self-Help* Program is supervised by an attorney and supported by case managers and clerk staff. The Brief Services Unit is operated by legal aid, with staff, pro bono attorneys, or volunteers to provide limited unbundled legal services that are at least in part provided in a courthouse setting.

Operational Principles

The following statements summarize the basic principles and assumptions used to develop a comprehensive framework for court-based services for self-represented litigants. The basic principles were accepted by a majority of participants at the January 2006 Orlando focus group, consisting of court representatives and stakeholders, including chief judges, court administrators, clerks, and the Bar.

Access

- a) The Florida Constitution, article I, section 21 provides that “the courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.”
- b) Revision 7 to Article V of the Florida Constitution makes no changes to the constitutional principles pertinent to due process, access to courts, open courts, and self representation.
- c) Litigants have the right to represent themselves in any matter in any court.
- d) Judges, court staff, and clerk of court employees have ethical and professional responsibilities to make it possible for self represented litigants to access and use the judicial process.
- e) There is a threshold level of service that, once identified, must be provided to self-represented litigants regardless of court or geographic location; similarly situated individuals should be treated similarly throughout the state.
- f) Services to self-represented litigants should not be denied based on a party’s financial means or disability.
- g) Services provided by courts should be provided equally to both or all parties to a dispute.

Roles & Responsibilities

- a) The Supreme Court has the active responsibility to approve the content of “basic legal materials” and forms made available to users through a court-based program, including materials provided by the clerks of court.

- b) The court's duty to oversee and direct court-based self-help program operations is clearly established. The chief judges, exercising their constitutional and statutory responsibility to promote the prompt and efficient administration of justice in their courts, must be able to direct and oversee the services and activities provided within the context of the court-based *Self-Help* program.
- c) Courts must establish the necessary liaison with adjunct services such as legal aid for the poor, pro bono and unbundled legal services from the private bar, and social services from public and private agencies. Liaison with these service providers will ensure appropriate referrals in both directions, from the courts to the service providers and from the service providers to the courts. The courts should support adequate funding for these services to ensure quality assistance for all persons in need.
- d) Court clerks have the statutory duty to provide ministerial assistance to pro se litigants by helping litigants complete court forms, including services for litigants with disabilities. The clerks have been funded to provide ministerial assistance for pro se litigants. Therefore, the court-based program should incorporate this aid provided by the clerks. From the litigants' perspective, the pro se services provided by the clerk and that provided by case managers should be seamlessly incorporated into the court-based program. Clerks may choose to fund the ministerial portion of the program, or they can contribute staff directly. Clerk staff assigned to provide ministerial assistance should do so within the court-based framework. This may prove beneficial to those dedicated staff, which would alleviate the pressure to serve self-represented litigants at the intake counter.
- e) Court case managers are responsible for facilitating the progress of the case, including the functions of reviewing, evaluating, assigning, monitoring, tracking, coordinating, and scheduling.
- f) It is the role of the legislature to determine the fees, if any, for forms and other self-help services provided by courts.
- g) The development of standardized forms, information, and instructions, pursuant to court rule, should be coordinated at the statewide level in order to minimize duplication of effort and allow for substantial comparability of services across the state. While the discussions included in this report have assumed that many statewide products would "build in" an accommodation for local practices, the advisability of limiting the scope of these accommodations must be stressed. Too

many local accommodations can create confusion among the court and litigant users; making it more difficult to provide training for court assistance staff and limiting the delivery processes such as document assembly programs and centralized help lines. Ensuring appropriate opportunities for input from judges, *Self-Help* program staff, and other stakeholders during all phases of form and instruction development will build a constituency for state level products.

Clerk and Court Staff Duties

The following table provides a delineation of duties for *Self-Help* program staff. Clerk of court staff will be responsible for intake and will provide ministerial assistance, while court staff will be responsible for case management and information access.

Clerk – intake	Court – case management
<ul style="list-style-type: none"> • ministerial • accept documents for filing • provide docketed case information • provide approved forms and approved instructions on how to complete the forms • record information provided by a self-represented litigant on approved forms • provide information about available approved forms, without providing advice or recommendation as to any specific course of action • notarize documents 	<ul style="list-style-type: none"> • management • provide general information about court process, practice and procedure • provide information about available pro bono legal services, low cost legal services, legal aid programs, and lawyer referral services • encourage self-represented litigants to obtain legal advice • engage in limited oral communications to assist a person in the completion of blanks on approved forms • provide information about mediation, court programs, required parenting courses, and courses for children of divorcing parents • provide, orally or in writing, definitions of legal terminology from widely accepted legal dictionaries without advising whether or not a particular definition is applicable • provide, orally or in writing, information from local rules or administrative orders • provide general information about local court operations • provide information about community services • facilitate the setting of hearings • attend hearings • draft orders/judgments for judge • post-filing case review • review cases for differential case management

Guidelines

- a) The promises of Revision 7 must be preserved, meaning that the court-based *Self-Help* program must demonstrate:
 - uniform availability of services to similarly situated litigants;
 - flexibility in delivery at the local level; and
 - commitment to efficiencies and accountability.
- b) Self represented litigants are not all the same, and have diverse personal and case-related needs.
- c) Duplication of effort, both within the court system and the community, must be avoided. Partnerships with providers of legal services, including private practitioners, pro bono, legal aid, and providers of community services (including advocates for domestic violence victims, immigrants and the homeless), and public and law libraries, should be integrated into the court-based *Self-Help* program.
- d) *Self-Help* program staff may not represent a litigant or provide legal advice to a litigant, but may and should, provide appropriate uniform legal information to litigants (including to both parties in the same case and in alternate formats for litigants with disabilities) upon request.
 - Legal information (appropriate) includes:
 - how to bring an issue or problem before the court for resolution, including alternatives available;
 - references to or copies of statutes and court rules;
 - explanation of the meaning of legal terms;
 - lists of the elements required for relief;
 - reference to the appropriate form for pursuing the litigant's stated aim;
 - instructions for completing necessary procedural steps;
 - instructions for conduct in the courtroom, including guidelines for presenting testimony and exhibits; and

- review of papers submitted for filing for completeness.
- Legal advice (inappropriate) includes:
 - recommendations concerning the remedy the litigant should seek and the specific terms or damages the litigant should request;
 - strategic and tactical recommendations on how to maximize the litigant's chance of success;
 - information concerning the likelihood of success in pursuing a legal strategy or the comparative likelihood of success for alternative strategies; and
 - representation of a litigant in open court.
- e) The self-help services provided by clerks and case managers should be seamlessly incorporated into the court-based *Self-Help* program in a manner that is indistinguishable from the litigant's perspective.
- f) Court policies and definitions of services for self-represented litigants should be clearly articulated to the public.

Threshold Services for Self-Represented Litigants

The “threshold” service model described in this report was designed to capture a level of service that is “less than optimal but more than minimal.” The following section identifies twelve (12) threshold services for a court-based *Self-Help* program. Many of these services mirror the standard of customer service that the public should be able to expect from any government entity. Within this service model is the recognition that the principles of accessibility must be incorporated through consideration and application of the requirements of the Americans with Disabilities Act of 1990; sections 262.601 through 262.606, Florida Statutes; and any other applicable state or federal disability laws. For each of these specific services, effective customer service will require the active involvement and participation of clerks’ staff, judges, case managers, court administration, and even security.

1. Directions to the correct location within the courthouse to find needed services.

Discussion:

In application, this threshold service will, of necessity, depend on local facilities. The smallest courthouses may not require any additional efforts, as all court-related services are collectively located. Larger courthouses, especially where the clerks and judicial officers operate within divisions, will require careful planning to ensure that litigants can easily locate a reliable source for general information and directions.

2. Information/notice as to the scope of the court-based self-help services available, and the limitation of such services.

Discussion:

Litigants need to clearly understand what they can and cannot expect from a court-based *Self-Help* program via a formal notice. The notice should include information on the importance of legal advice and the hazards of self-representation. This allows the litigant to make an informed decision about whether to represent him or her self and also averts potential frustration for the litigant and staff.

A standard notice, available in alternate formats for litigants with disabilities, should be prominently displayed on all court self-help web sites as well as the clerks’ and

courts' public spaces and offices that self-represented litigants frequent. All court and clerk employees and volunteers who typically interact with self-represented litigants should be able to competently explain the information contained in the notice.

- 3. Information about the legal process specific to the subject matter of the self-represented litigant's case, including:**
 - a) Information about legal rights, and remedies available or not available;**
 - b) Explanation of the meaning of legal terms;**
 - c) Identification of legal factors that must be established to obtain the desired remedy;**
 - d) Description of successive steps of the legal process associated with the desired remedy; and**
 - e) Basic legal materials available to the public other than a law library.**

Discussion:

A Google search for "Florida court forms" yields over 2 million hits; many are not court-based sites, as a proliferation of Internet businesses offer forms for use in Florida courts. Florida's past experiences have demonstrated that without a court-based program, other entities fill the void, some charging substantial amounts for inadequate service and legal advice from non-lawyers. Our courts must leverage the Internet to enhance public access and service for self-represented litigants.

Providing a wide range of information and services at a single point of access is an inherently efficient way of disseminating and updating information. The ability to generate and disseminate information has never been greater; every day more people become accustomed to finding and using information over the Internet. In fact, people now expect that what they need will be available on the Internet. People without Internet access at home often have access at work, through a family member or friend, or a public library. However, some people, who, for any number of reasons, will be effectively unable to use the Internet. Therefore, the information for this threshold service must also be easily available and accessible through the local court-based self-help programs and partners.

Chapter 29.004(12), F.S., provides that “basic legal materials reasonably accessible to the public other than a public law library” are an element of the state courts system to be provided from state revenues appropriated by general law. This would include the development of brochures and multi-media pertaining to the rights of children in the court system, such as delinquency, dependency, termination of parental rights, and emancipation.

Emphasis should be placed on developing standardized information that is applicable statewide but should accommodate some local customization. Consideration should be given to contracting with public service oriented legal organizations, such as Florida Legal Services, Inc.

4. Information about the necessary documents and procedural steps involved in seeking a legal remedy.

Discussion:

I. The following information lends itself to standardization and web distribution:

- a) Basic, user-friendly form pleadings appropriate to bring the litigant’s matter before the court for decision;
- b) Notice of the privacy implication for documents filed in a court case;
- c) Information about service of process requirements;
- d) Information about discovery and disclosures that may be required and available;
- e) Information describing case and courtroom participants;
- f) Information about how to participate in a hearing or trial, including: what time and where to appear, appropriate attire, what and who to bring, and how to address the judge;
- g) Information concerning requirements for making a record; and
- h) Information concerning the consequences of non-compliance with court orders and rules;

II. The following information requires personal assistance or identification:

- a) Identification of appropriate forms;
- b) Assistance in completing forms, including financial affidavits and child support worksheets, in a manner responsive to the input the form solicits;
- c) Assistance in completing a form for people with limited English reading or writing proficiency, as well as litigants with disabilities;
- d) Assistance with verifying pleadings that require verification;
- e) Pre-filing review of completed pleadings and notification of deficiencies to ensure completeness;
- f) Assistance in filing completed forms;
- g) Explanation of filing fees, service charges and other costs associated with seeking a legal remedy;
- h) Assistance in completing requests for court approval of alternative methods of service of process; and
- i) Post-filing review of completed pleadings and notification of deficiencies to ensure completeness.

The following issues should also be considered:

Forms – The primary concern with forms is outlining the process for identifying and prioritizing the areas of need. This would necessitate a well defined court form policy, including how forms are developed, piloted, and approved. However, the limited value of standardized form orders and judgments developed for litigants’ use must be taken into account. Form development may be accomplished by outsourcing the process to public service legal organizations, such as The Florida Bar or Florida Legal Services, Inc. The format of the forms must also be considered, with two options available – a presentation format (i.e. “fillable” electronic format such as Word or .pdf), or an interactive program that generates a complete form based on the individual’s response to questions.

Fees – Another issue to consider is the appropriateness of fees for forms, forms packets, and workshops provided through court-based self-help programs. Additionally, if fees are to be charged, the issue of legislative revenue authority and the disposition of the resulting revenues must be evaluated.

Confidentiality – To alleviate concerns regarding privacy, a standard notice should be included in the general instructions as well as in the instructions for specific forms likely to involve confidential or exempt information. The notice should be electronically published in web, brochure and poster format that can be downloaded by local courts for incorporation into the local program services. The notice should be prominently displayed on all court self-help web sites as well as the clerks' and courts' public spaces and offices that self-represented litigants frequent. All court and clerk employees and volunteers who typically interact with self-represented litigants should be able to competently explain the information contained in the notice.

5. Information about options for dispute resolution/mediation.

Discussion:

Some courts, by design, integrate court-ordered mediation or arbitration into the case process for certain types of cases (e.g., small claims, landlord-tenant issues, and domestic relations). To the extent that mediation or arbitration is integrated into a courts' case process, the information about related forms, orders, and procedural steps should be integrated into threshold service "4."

Beyond that, litigants need general information about the purpose and benefits of alternative dispute resolution, how the mediation and arbitration processes work, and the availability of court and community-based resources. Any information should be available in web, brochure, and poster format that can be downloaded and modified by local courts to incorporate information on specific local programs and services.

6. Interpretation for non-English speaking litigants.

Discussion:

Without an interpreter, litigants with limited English abilities face disadvantageous access to the courts. Generally, for purposes other than court proceedings and mediation, it is acceptable for a litigant to rely on bi-lingual self-help staff, and/or a trusted family member or friend to interpret conversations or translate documents.

If a bi-lingual staff person is not an option, a litigant does not have a capable family member or friend available, or if the case involves an important legal right or issue, such as paternity, child custody or domestic violence; a qualified interpreter may be provided. Where the parties are financially able, it is appropriate to charge for court interpreting services in civil cases or to require the parties to engage a qualified interpreter. The charge should be based on the present ability of the litigant to pay and may include a sliding scale or a flat fee.

7. Translation of written materials.

Discussion:

Providing written materials that are translated into frequently occurring languages will promote both access to the courts and efficient use of interpreter resources. Translating basic information and notices on legal rights and remedies, legal terms, court processes, and court services would cast the widest net in terms of facilitating access for non-English speaking litigants.

Local variations on translated documents with statewide applicability should be strongly discouraged, as the economies of scale would be lost as local versions are created and translated. Practical consideration should be given to the value of translating the actual pleading forms, as pleadings and orders will need to be prepared in English.

8. Referral to public and private services.

Discussion:

Assistance in understanding and pursuing a legal matter if the litigant is not able to do so is facilitated through referral to public and private services within the community appropriate to the self-represented litigant's needs, including private attorneys, pro bono programs, legal services, legal aid, low-fee panels, public libraries and legal law libraries.

The importance of the referral component of the *Self-Help* program cannot be overstated; careful planning will be required for the self-help service model to work as designed. It is insufficient to merely compile a list of services offered in the community – systemic partnerships must be developed. Courts and service providers need to have a clear understanding about the nature and scope of services that will be provided so that the *Self-Help* program, in making the referral, can have confidence that the litigants' needs will be addressed. Careful assessment as to the capacity of services available will allow courts to identify referral service gaps. Once these gaps are identified, active judicial leadership to encourage additional community capacity for referral service will be necessary to complete the service model.

The service model should be designed to identify the level of complexity of services needed for litigants early in the process.

9. Monitoring the progress of the case.

Discussion:

This requires ready access to the files and to the electronic clerk records in order to ensure appropriate court action for timely resolution.

10. Generating a written order embodying the court's ruling.

Discussion:

When parties are represented by counsel, judges often issue a ruling and direct counsel to prepare an order to that effect for the judge's consideration. When there is

no attorney, the judge, magistrate, law clerk or case manager will need to prepare the order. Case managers should be able to generate most standard orders or judgments; however, they should do so only at the discretion of the judge and only with the approval of the judge regarding the contents of the order. Orders and judgments should be written in clear simple language and where possible, be provided in court.

11. Basic explanation of what is contained in the court's ruling.

Discussion:

Some litigants will need to hear a basic explanation about what happened, what is expected, and what to do next. The *Self-Help* program should be implemented in a manner designed to provide an explanation regarding the judge's ruling, order, or judgment; what will be required to comply; and how to seek clarification – without providing a legal interpretation or advising as to a course of action.

12. Post-judgment information.

Discussion:

After the order or judgment is entered, information about remedies available and the process for pursuing those remedies, (e.g., motion for rehearing or reconsideration; appeal and enforcement), may be provided.

Legal Discussion

To be effective, a program to assist self-represented litigants should provide guidance to personnel implementing the program. Such personnel should not be without a list of expectations, as well as a list of prohibitions, to guide them away from the unlicensed practice of law (UPL) prohibited by rule 10-2.1 of the Rules Regulating the Florida Bar and section 454.23, Florida Statutes, which makes UPL a third degree felony. While the statutes make it clear that the clerk of court may not provide legal assistance, the process and any forms or instructions developed to implement a self-help program, must task the clerk with only ministerial functions. Further, a proposed rule should provide the necessary flexibility to the chief judge of a circuit to allow the unique circumstances within a circuit to be addressed with a local response. Such flexibility is provided by allowing the chief judge of a circuit to establish or modify the *Self-Help* program by administrative order. The proposed rule, in Appendix A, is patterned after Rule 12.750, Florida Family Law Rules, a copy of which is in Appendix B.

The proposed rule for civil self-help differs from Rule 12.750 in several material ways. First, in subsection (b)(1) the rule defines a civil case as all cases that are not criminal. The second difference occurs in subsection (b)(5) “Approved Forms.” The proposed rule cannot refer to a body of Supreme Court approved rules as does Rule 12.750(b)(5), because there are no approved simplified civil forms yet designed to be used by unrepresented civil litigants. However, reference to approved Florida Supreme Court forms should be included to allow the use of forms currently approved in the Rules of Civil Procedure or approved in the future. Instead, the proposed rule states that the forms that may be used are those approved by the chief judge of a circuit which are not inconsistent with supreme court approved forms and which have been sent to the chief justice, the chair of the civil rules committee of the Florida Bar, the civil section of the Florida Bar and which have not been specifically disapproved by the Supreme Court. While Rule 10-2.1, Rules Regulating the Florida Bar, does not provide an exemption from UPL provisions when the forms used were approved by the Supreme Court by acquiescence, the current Rule 12.750, Florida Family Rules allows such forms to be used by those assisting self-represented litigants in family law matters. In family law matters, the procedure for the chief judge to approve forms in addition to, or modifying the Supreme Court approved forms, is frequently used to respond quickly to legislative changes. Once the forms have been received by the Supreme Court and reviewed, an acknowledgement letter is sent, but no formal statement of approval is made. This process apparently has not implicated the UPL provisions of the Rules Regulating the Florida Bar.

The final material difference between Rule 12.750 and the proposed rule to implement civil self-help programs is contained in subsection (b)(6), of the proposed rule. In that subsection, the definition of “Ministerial Assistance” is provided. This definition is included to implement the provisions of section 28.215, Florida Statutes, which states:

28.215 Pro se assistance.--The clerk of the circuit court shall provide ministerial assistance to pro se litigants. Assistance shall not include the provision of legal advice.

All the other provisions of the proposed rule which differ from Rule 12.750, Florida Family Rules, are non-material modifications to conform the self-help rule to civil cases.

Conclusion

With the publication of this report, the TCP&A endeavors to highlight pro se issues and outline a framework for service delivery. However, the TCP&A acknowledges that this is only a first step to achieve successful implementation of the *Self-Help* program. The Supreme Court may wish to give consideration to the following issues: the current status of pro se services in Florida, the funding implications of the *Self-Help* program, and the political viability of implementing the *Self-Help* program. Each of these issues should be seen as collectively impacting the implementation of the program, in that the initial step must be a survey of current services, which leads to consideration of the fiscal impact of the program, and which concludes with comprehension of the political impact on stakeholders who are within and aided by the program.

Currently, very limited data and documentation are available as to what services are provided to pro se litigants across the state. Implementation of the *Self-Help* program is dependent upon understanding what services are currently available and the extent of operational change that must take place. The Supreme Court may wish to direct that this data be collected, so as to more fully understand the current state of pro se affairs.

Implementation of the *Self-Help* program will have a fiscal impact on the court system, clerks of court, and the legal community. Additionally, the responsibility for statewide coordination of the *Self-Help* program will have a fiscal impact on the judicial entity assigned such a duty. An analysis of the fiscal impact of operational changes will be a necessary step in order to give the judicial branch the ability to determine the need for additional funding. The Supreme Court may wish to direct that a fiscal analysis be completed by the appropriate court-appointed commission.

Many stakeholders will be impacted by the *Self-Help* program, including clerks of court, members of the Florida Bar, and the general public. Broad support from these varied stakeholders is essential to the implementation and survival of the program and must be pursued carefully, especially in light of the fiscal implications discussed above. In January 2008, the TCP&A outreached a draft of this report to the following stakeholder groups:

- The Florida Bar
 - Unlicensed Practice of Law Committee
 - Family Law Rules Committee
 - Small Claims Rules Committee
 - Pro Bono Legal Services Committee

- Citizens Forum
- Florida Legal Services, Inc
- Florida Coalition Against Domestic Violence
- Florida State Court and County Law Librarians
- Clerks of Court
- Florida Association of Court Clerks and Comptroller
- Court
 - Chief Judges
 - Trial Court Administrators
 - Steering Committee on Children and Families in the Court
 - Committee on Fairness and Diversity

The most common concerns among the stakeholders appeared to be the defined scope of ministerial assistance and the potential fiscal impact of the programs. The Supreme Court may wish to provide direction on the approach that would be most effective to gain broad consensus and support among stakeholders in the development, implementation, and management stages of the *Self-Help* program.

Appendix A

Rule _____. Self-Help Programs

(a) Establishment of Programs. A chief judge, by administrative order, may establish a self-help program to facilitate access to court. The purpose of a self-help program is to assist self-represented litigants, within the bounds of this rule, to achieve fair and efficient resolution of their civil case. The purpose of a self-help program is not to provide legal advice to self-represented litigants. This rule applies only to programs established and operating under the auspices of the court pursuant to this rule. The clerk of court shall provide ministerial assistance to self-represented litigants at the direction of the chief judge.

(b) Definitions.

(1) "Civil case" means any case in the circuit that is not assigned to the criminal division.

(2) "Self-represented litigant" means any individual who seeks information to file, pursue, or respond to a civil case without the assistance of a lawyer authorized to practice before the court.

(3) "Self-help personnel" means lawyer and non-lawyer personnel in a self-help program.

(4) "Self-help program" means a program established and operating under the authority of this rule.

(5) "Approved form" means Florida Supreme Court Approved forms that have been approved in writing by the chief judge of a circuit and that are not inconsistent with supreme court approved forms, copies of which are to be sent to the chief justice, the chair of the Civil Rules Committee of The Florida Bar, and the chair of the Civil Section of The Florida Bar. Forms approved by a chief judge may be used unless specifically rejected by the supreme court.

(6) "Ministerial assistance" means providing assistance as directed by the chief judge to self-represented persons who are filling out forms. Ministerial assistance also means providing the services found in subsection (c) of this rule.

(c) Services Provided. Self-help personnel may:

- (1) encourage self-represented litigants to obtain legal advice;
- (2) provide information about available pro bono legal services, low cost legal services, legal aid programs, and lawyer referral services;
- (3) provide information about available approved forms, without providing advice or recommendations as to any specific course of action;
- (4) provide approved forms and approved instructions on how to complete the forms;
- (5) engage in limited oral communications to assist a person in the completion of blanks on approved forms;
- (6) record information provided by a self-represented litigant on approved forms;
- (7) provide, either orally or in writing, definitions of legal terminology from widely accepted legal dictionaries or other dictionaries without advising whether or not a particular definition is applicable to the self-represented litigant's situation;
- (8) provide, either orally or in writing, citations of statutes and rules, without advising whether or not a particular statute or rule is applicable to the self-represented litigant's situation;
- (9) provide docketed case information;
- (10) provide general information about court process, practice, and procedure;
- (11) provide information about mediation;
- (12) provide, either orally or in writing, information from local rules or administrative orders;
- (13) provide general information about local court operations;
- (14) provide information about community services; and

(15) facilitate the setting of hearings.

(d) Limitations on Services. Self-help personnel shall not:

(1) provide legal advice or recommend a specific course of action for a self-represented litigant;

(2) provide interpretation of legal terminology, statutes, rules, orders, cases, or the constitution;

(3) provide information that must be kept confidential by statute, rule, or case law;

(4) deny a litigant's access to the court;

(5) encourage or discourage litigation;

(6) record information on forms for a self-represented litigant, except as otherwise provided by this rule;

(7) engage in oral communications other than those reasonably necessary to elicit factual information to complete the blanks on forms except as otherwise authorized by this rule;

(8) perform legal research for litigants;

(9) represent litigants in court; and

(10) lead litigants to believe that they are representing them as lawyers in any capacity or induce the public to rely upon them for legal advice.

(e) Unauthorized Practice of Law. The services listed in subdivision (c), when performed by non-lawyer personnel in a self-help program, shall not be the unauthorized practice of law.

(f) No Confidentiality. Notwithstanding ethics rules that govern attorneys, certified legal interns, and other persons working under the supervision of an attorney, information given by a self-represented litigant to self-help personnel is not confidential or privileged.

(g) No Conflict. Notwithstanding ethics rules that govern attorneys, certified legal interns, and other persons working under the supervision of an attorney, there is no conflict of interest in providing services to both parties.

(h) Notice of Limitation of Services Provided. Before receiving the services of a self-help program, self-help personnel shall thoroughly explain the "Notice of Limitation of Services Provided" disclaimer below. Each self-represented litigant, after receiving an explanation of the disclaimer, shall sign an acknowledgment that the disclaimer has been explained to the self-represented litigant and that the self-represented litigant understands the limitation of the services provided. The self-help personnel shall sign the acknowledgment certifying compliance with this requirement. The original shall be filed by the self-help personnel in the court file and a copy shall be provided to the self-represented litigant.

NOTICE OF LIMITATION OF SERVICES PROVIDED

THE PERSONNEL IN THIS SELF-HELP PROGRAM ARE NOT ACTING AS YOUR LAWYER OR PROVIDING LEGAL ADVICE TO YOU.

SELF-HELP PERSONNEL ARE NOT ACTING ON BEHALF OF THE COURT OR ANY JUDGE. THE PRESIDING JUDGE IN YOUR CASE MAY REQUIRE AMENDMENT OF A FORM OR SUBSTITUTION OF A DIFFERENT FORM. THE JUDGE IS NOT REQUIRED TO GRANT THE RELIEF REQUESTED IN A FORM.

THE PERSONNEL IN THIS SELF-HELP PROGRAM CANNOT TELL YOU WHAT YOUR LEGAL RIGHTS OR REMEDIES ARE, REPRESENT YOU IN COURT, OR TELL YOU HOW TO TESTIFY IN COURT.

SELF-HELP SERVICES ARE AVAILABLE TO ALL PERSONS WHO ARE OR WILL BE PARTIES TO A CIVIL CASE. THE INFORMATION

THAT YOU GIVE TO AND RECEIVE FROM SELF-HELP PERSONNEL IS NOT CONFIDENTIAL AND MAY BE SUBJECT TO DISCLOSURE AT A LATER DATE. IF ANOTHER PERSON INVOLVED IN YOUR CASE SEEKS ASSISTANCE FROM THIS SELF-HELP PROGRAM, THAT PERSON WILL BE GIVEN THE SAME TYPE OF ASSISTANCE THAT YOU RECEIVE.

IN ALL CASES, IT IS BEST TO CONSULT WITH YOUR OWN ATTORNEY, ESPECIALLY IF YOUR CASE PRESENTS SIGNIFICANT ISSUES.

_____ I CAN READ ENGLISH.

_____ I CANNOT READ ENGLISH. THIS NOTICE WAS READ TO ME BY {NAME} _____ IN {LANGUAGE} _____.

SIGNATURE

If information is provided by telephone, the notice of limitation of services provided shall be heard by all callers prior to speaking to self-help staff.

(i) Exemption. The provisions in rule 10-2.1, Rules Regulating The Florida Bar, which require a non-lawyer to include the non-lawyer's name and identifying information on a form if the non-lawyer assisted in the completion of a form, are not applicable to self-help personnel unless the self-help personnel recorded the information on the form as authorized by this rule.

(j) Availability of Services. Self-help programs are available to all self-represented litigants in civil cases.

(k) Cost of Services. Self-help programs, as authorized by statute, may require self-represented litigants to pay the cost of services provided for by this rule, provided that the charge for persons who are indigent is substantially reduced or waived.

(l) Records. All records made or received in connection with the official business of a self-help program are judicial records and access to such records shall be governed by rule 2.420, Florida Rules of Judicial Administration.

(m) Domestic Violence Exclusion. Nothing in this rule shall restrict services provided by the clerk of the court or family or domestic/repeat violence intake personnel pursuant to rule 12.610.

Appendix B

RULE 12.750. FAMILY SELF-HELP PROGRAMS

(a) Establishment of Programs. A chief judge, by administrative order, may establish a self-help program to facilitate access to family courts. The purpose of a self-help program is to assist self-represented litigants, within the bounds of this rule, to achieve fair and efficient resolution of their family law case. The purpose of a self-help program is not to provide legal advice to self-represented litigants. This rule applies only to programs established and operating under the auspices of the court pursuant to this rule.

(b) Definitions.

(1) “Family law case” means any case in the circuit that is assigned to the family law division.

(2) “Self-represented litigant” means any individual who seeks information to file, pursue, or respond to a family law case without the assistance of a lawyer authorized to practice before the court.

(3) “Self-help personnel” means lawyer and nonlawyer personnel in a self-help program.

(4) “Self-help program” means a program established and operating under the authority of this rule.

(5) “Approved form” means (A) Florida Family Law Rules of Procedure Forms or Florida Supreme Court Approved Family Law Forms or (B) forms that have been approved in writing by the chief judge of a circuit and that are not inconsistent with the Supreme Court approved forms, copies of which are to be sent to the chief justice, the chair of the Family Law Rules Committee of The Florida Bar, the chair of the Family Law Section of The Florida Bar, and the chair of the Family Court Steering Committee. Forms approved by a chief judge may be used unless specifically rejected by the Supreme Court.

(c) Services Provided. Self-help personnel may:

(1) encourage self-represented litigants to obtain legal advice;

(2) provide information about available pro bono legal services, low cost legal services, legal aid programs, and lawyer referral services;

(3) provide information about available approved forms, without providing advice or recommendation as to any specific course of action;

(4) provide approved forms and approved instructions on how to complete the forms;

(5) engage in limited oral communications to assist a person in the completion of blanks on approved forms;

(6) record information provided by a self-represented litigant on approved forms;

(7) provide, either orally or in writing, definitions of legal terminology from widely accepted legal dictionaries or other dictionaries without advising whether or not a particular definition is applicable to the self-represented litigant's situation;

(8) provide, either orally or in writing, citations of statutes and rules, without advising whether or not a particular statute or rule is applicable to the self-represented litigant's situation;

(9) provide docketed case information;

(10) provide general information about court process, practice, and procedure;

(11) provide information about mediation, required parenting courses, and courses for children of divorcing parents;

(12) provide, either orally or in writing, information from local rules or administrative orders;

(13) provide general information about local court operations;

(14) provide information about community services; and

(15) facilitate the setting of hearings.

(d) Limitations on Services. Self-help personnel shall not:

- (1) provide legal advice or recommend a specific course of action for a self-represented litigant;
- (2) provide interpretation of legal terminology, statutes, rules, orders, cases, or the constitution;
- (3) provide information that must be kept confidential by statute, rule, or case law;
- (4) deny a litigant's access to the court;
- (5) encourage or discourage litigation;
- (6) record information on forms for a self-represented litigant, except as otherwise provided by this rule;
- (7) engage in oral communications other than those reasonably necessary to elicit factual information to complete the blanks on forms except as otherwise authorized by this rule;
- (8) perform legal research for litigants;
- (9) represent litigants in court; and
- (10) lead litigants to believe that they are representing them as lawyers in any capacity or induce the public to rely upon them for legal advice.

(e) Unauthorized Practice of Law. The services listed in subdivision (c), when performed by nonlawyer personnel in a self-help program, shall not be the unauthorized practice of law.

(f) No Confidentiality. Notwithstanding ethics rules that govern attorneys, certified legal interns, and other persons working under the supervision of an attorney, information given by a self-represented litigant to self-help personnel is not confidential or privileged.

(g) No Conflict. Notwithstanding ethics rules that govern attorneys, certified legal interns, and other persons working under the supervision of an attorney, there is no conflict of interest in providing services to both parties.

(h) Notice of Limitation of Services Provided. Before receiving the services of a self-help program, self-help personnel shall thoroughly explain the “Notice of Limitation of Services Provided” disclaimer below. Each self-represented litigant, after receiving an explanation of the disclaimer, shall sign an acknowledgment that the disclaimer has been explained to the self-represented litigant and that the self-represented litigant understands the limitation of the services provided. The self-help personnel shall sign the acknowledgment certifying compliance with this requirement. The original shall be filed by the self-help personnel in the court file and a copy shall be provided to the self-represented litigant. If information is provided by telephone, the notice of limitation of services provided shall be heard by all callers prior to speaking to self-help staff.

(i) Exemption. Self-help personnel are not required to complete Florida Family Law Rules of Procedure Form 12.900(a), Disclosure From Nonlawyer, as required by rule 10-2.1, Rules Regulating The Florida Bar. The provisions in rule 10-2.1, Rules Regulating The Florida Bar, which require a nonlawyer to include the nonlawyer’s name and identifying information on a form if the nonlawyer assisted in the completion of a form, are not applicable to self-help personnel unless the self-help personnel recorded the information on the form as authorized by this rule.

(j) Availability of Services. Self-help programs are available to all self-represented litigants in family law cases.

(k) Cost of Services. Self-help programs, as authorized by statute, may require self-represented litigants to pay the cost of services provided for by this rule, provided that the charge for persons who are indigent is substantially reduced or waived.

(l) Records. All records made or received in connection with the official business of a self-help program are judicial records and access to such records shall be governed by Florida Rule of Judicial Administration 2.051.

(m) Domestic, Repeat, Dating, and Sexual Violence Exclusion. Nothing in this rule shall restrict services provided by the clerk of the court or family or domestic/repeat/dating/sexual violence intake personnel pursuant to rule 12.610.

Commentary

1998 Adoption. It should be emphasized that the personnel in the self-help programs should not be providing legal advice to self-represented litigants. Self-help personnel should not engage in any activities that constitute the practice of law or inadvertently create an attorney-client relationship. Self-help programs should consistently encourage self-represented litigants to seek legal advice from a licensed attorney. The provisions of this rule only apply to programs established by the chief judge.

Subdivision (b). This rule applies only to assistance offered in family law cases. The types of family law cases included in a family law division may vary based on local rule and it is anticipated that a local rule establishing a self-help program may also exclude types of family law cases from the self-help program. Programs may operate with lawyer personnel, nonlawyer personnel, or a combination thereof.

Subdivision (c)(2). The self-help program is encouraged to cooperate with the local bar to develop a workable system to provide this information. The program may maintain information about members of The Florida Bar who are willing to provide services to self-represented litigants. The program may not show preference for a particular service, program, or attorney.

Subdivision (c)(3). In order to avoid the practice of law, the self-help personnel should not recommend a specific course of action.

Subdivision (c)(5). Self-help personnel should not suggest the specific information to be included in the blanks on the forms. Oral communications between the self-help personnel and the self-represented litigant should be focused on the type of information the form is designed to elicit.

Subdivision (c)(8). Self-help personnel should be familiar with the court rules and the most commonly used statutory provisions. Requests for information beyond these commonly used statutory provisions would require legal research, which is prohibited by subdivision (d)(8).

Subdivision (c)(9). Self-help personnel can have access to the court's docket and can provide information from the docket to the self-represented litigant.

Subdivision (f). Because an attorney-client relationship is not formed, the information provided by a self-represented litigant is not confidential or privileged.

Subdivision (g). Because an attorney-client relationship is not formed, there is no conflict in providing the limited services authorized under this rule to both parties.

Subdivision (h). It is intended that self-represented litigants who receive services from a self-help program understand that they are not receiving legal services. One purpose of the disclosure is to prevent an attorney-client relationship from being formed. In addition to the signed disclosure, it is recommended that each program post the disclosure in a prominent place in the

self-help program. The written disclosure should be available and posted in the languages that are in prevalent use in the county.

Subdivision (i). This provision is to clarify that nonlawyer personnel are not required to use Florida Family Law Rules of Procedure Form 12.900(a) because the information is included in the disclosure required by this rule. Self-help personnel are required to include their name and identifying information on any form on which they record information for a self-represented litigant.