



Bench Card: Self-Represented Litigants and SCR 63(A)(4)

Judges have the power and obligation to ensure that Self-Represented Litigants (SRLs) are fairly heard.

Illinois Supreme Court Rule 63(A)(4)

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. A judge may make reasonable efforts, consistent with the law and court rules, to facilitate the ability of self-represented litigants to be fairly heard.

Tips for ensuring SRLs are fairly heard:

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

1. Plain Language

The Supreme Court has adopted a Policy on Plain Language stating "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 SRLs have little, if any, understanding of the court process. You should ensure that SRLs have a basic understanding of the process for that particular day and for the case overall. When explaining process, it is proper to do so in the same manner that you would explain it to a jury. You may wish to provide an explanation of substantive and procedural matters at the beginning of proceedings or have helpful signage posted around the courtroom to identify staff and establish basic procedure (e.g. turn off cell phones).

3. Check for Understanding

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

4. Liberally Construe Pleadings

SRLs sometimes use the wrong forms or label pleadings incorrectly. You should focus on the contents of the document and the issues raised.

5. Ask Questions & Consider Modifying Process

You should ask open-ended questions to elicit general information and to obtain clarification from parties or witnesses. You should explain why the questions are being asked and that your questions should not be taken as indicating your opinion of the case. Consider modifying the order of the proceedings as another way to focus the hearing on matters that are material and elicit relevant information more efficiently.

All materials referenced in this bench card, as well as sample resources and referral sheets, can be found at: <https://tinyurl.com/ATJCourts>

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6. Explain What You're Doing

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

7. SRLs are Stressed

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

8. Active Listening & Patience

Some ways to further ease tension for SRLs is by smiling and actively listening (making eye contact, nodding, stopping other work). Introduce yourself and greet all parties by name. Many SRLs report feeling ignored when judges appear friendly with lawyers, but not with them. Things might take longer when SRLs are involved and, generally, that is ok. Also, SRLs may be late or miss court dates due to transportation, employment, or child care challenges. Be patient in hearing the SRLs' explanations and consider remote appearances under SCR 185 for simple status dates to avoid these issues.

9. 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: ability of SRLs to be heard
- Neutrality: consistent treatment & unbiased decisions
- Respect: treating SRLs with courtesy & respect
- Trust: perceiving a judge as sincere and caring
- Understanding: ensuring SRLs can understand procedure, decisions, and how decisions are made
- Helpfulness: SRLs perceiving court staff as interested in their situation

10. Unconscious Bias & Cultural Competence

Implicit bias is a psychological process that influences decision-making outside of conscious awareness. Everyone has biases based on repeated exposure to group stereotypes even if you consciously disagree with them. One way to decrease bias is to increase cultural competence (your ability to understand and communicate effectively with people across cultures). Another is developing a positive attitude towards cultural differences and gaining knowledge of cultural practices to improve your interactions with some SRLs.

11. 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 Illinois Supreme Court Language Access Policy. A Courtroom Interpreting Bench Card contains information about how to determine the need for an interpreter and tips for communicating through interpreters.

12. Resources & Referrals

Judges and all court, library, and clerk staff may provide SRLs with legal information and referrals. You should 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 locally based, so be sure to learn about what is available in your area. Statewide information may always be shared, including:

- ILAO: www.illinoislegalaids.org
- Forms: www.illinoiscourts.gov/Forms/approved/
- Legal Aid:
 - Statewide Armed Forces Network: 855-452-3526
 - Cook - CARPLS: 312-738-9200
 - Northern IL – Prairie State: 800-531-7057
 - Southern IL – Land of Lincoln: 877-342-7891
- Bar referral services: ISBA LawyerFind: 800-922-8757 (offers ½ hour attorney consultation for \$25)

Confirm your referral information regularly to make sure the resources are current. If you will be sending SRLs to another office in the courthouse or community, take time to visit so that you are able to give them informed directions on how to get there and guidance on what to expect.

For additional information or assistance with creating helpful resources, please contact:

Jill E. Roberts, Senior Program Manager-SRLs Administrative Office of the IL Courts, Access to Justice Division
312-793-2305; jroberts@illinoiscourts.gov

November 2019 v. 1