

HOW TO ANSWER A LEGAL REFERENCE QUESTION

Advice for Public Librarians from County Law Librarians

Every Legal Problem Question is the “Tax Form Question”

HELPING PATRONS WITH LEGAL REFERENCE PROBLEMS

- You CAN help the patron *without* answering the question, but that requires reframing the question:
Patron question: “I need a form to respond to a subpoena.”
Reframe the question: “I need information about how to respond to a subpoena.”
- There is almost always a useful response to a legal reference question, but that response is a referral to a website, a legal research book, a law library, or a law librarian.
- Legal reference is not unlike medical reference: You would not say: “*Here is an advance directive you can fill out and keep with you when you go to the hospital.*” [This is not to be confused with showing patrons how to search for information about advance directives online and in print, which is OK.]

RESPONSES TO PEOPLE WITH QUESTIONS ABOUT THEIR LEGAL PROBLEMS

People who want quick fixes to their legal problems will often hear what they want to hear. Be consistent when you answer patrons’ questions.

Not OK: Please don’t say, “*I can’t answer that,*” not just because you can’t but because people hear the word “can’t” and think that you DO know, but just won’t tell them.

OK: “*I don’t know the answer to your question, but let me show you our legal research resources.*”

OK: “*I don’t know the answer to your question and I don’t know if these will be helpful, but here are some resources we have on the subject. The county law library has additional legal research resources and it’s open to the public. May I show you how to contact them?*”

OK: “*We have some legal reference tools here (e.g. Oregon Revised Statutes [ORS]). Would you like me to explain how to use the index?*”

Frequently Asked Legal Reference Questions

- What is the Oregon law on x? (*Refer to the ORS, Oregon Administrative Rules, or local ordinances.*)
- How do I find a case? (*Depends on jurisdiction; many – but not all – are available online, including Google Scholar, and through subscription databases in county law libraries.*)
- Where do I find a form? (*Refer to local court, Oregon Judicial Department (OJD), or Stevens-Ness; remember, form may not exist and county court-specific forms not transferable to other courts.*)
- What county office do I go to for xxx? (*Use county directory & be familiar with departments.*)

- I have a traffic ticket and want to look up the law. (*Find law cited on ticket & refer to ORS.*)
- The court/my lawyer/other told me to go to the library. (*Refer to county law library, or call for assistance.*)
- Do you have Lexis? (*Clarify this is what patron needs; research may be addressed using another resource. Refer to county law library for Lexis or Westlaw access.*)

UNAUTHORIZED PRACTICE OF LAW ISSUES

- **Rule No. 1:** You may answer **legal research** questions; you may **NOT** answer **legal problem** questions.
- **Rule No. 2:** You DON'T KNOW the "answer" to questions about legal problems and your legal research resources may not be relevant or current. Incomplete answers can be as bad as wrong answers.
- **Rule No. 3:** You **MAY** refer a patron to your library's legal research resources, a county law library, Oregon Judicial Department (OJD), Oregon State Bar (OSB), legal aid, government or social service agencies, nonprofits, etc.
- **Rule No. 4:** Never refer a patron to a specific form, commercial service, business, or website without checking first with a county law librarian, Legal Aid, OSB, or OJD attorney.

RETRAINING PUBLIC LIBRARIANS FOR LEGAL REFERENCE WORK

- Public librarians are trained to "answer questions" and resist saying, "*I can't answer that question.*" You **MUST** resist that.
- Don't confuse yourself with trying to distinguish legal *advice* from legal *information*. Instead, differentiate between patrons with individual legal problems versus people with law-related research questions (e.g. students, researchers). If the patron has a real legal problem, direct them to your library's resources, make appropriate referrals, and refer them to their county law library.
- Recognize that some people may want to research a subject before consulting an attorney. Clients can potentially save on legal fees if they already have some basics before the lawyer engagement begins. Your library may have useful resources for this purpose, or you can refer the patron to a county law library for more in-depth "homework" research.
- Unless a form is an official, court-sanctioned document, **THERE IS NO "FILL IN THE BLANK" LEGAL FORM** that will answer most patron questions, let alone solve patron legal problems.
- If the patron has a legal problem, **YOU CANNOT SOLVE THAT LEGAL PROBLEM**. Please do not give any patron a false sense of security.
- Courts are filled with people (*and lawyers*) trying to fix problems that were created by those who refused to consult a lawyer or do thorough legal research. It is cheaper and easier to resolve legal problems from the start than to fix later through litigation or lawyer assistance.