

Legal Advice vs. Legal Information

This document has been adopted from Legal Advice v Access to the Courts: Do YOU Know the Difference?, which was developed and distributed by the Michigan Judicial Institute. Its purpose is to assist legal advocates with working with sexual assault and domestic violence survivors. It should not be considered legal advice. It is not intended to be presented as a stand alone document; rather, it is a training tool that should be used in conjunction with training by either the Wisconsin Coalition Against Sexual Assault (WCASA) or the Wisconsin Coalition Against Domestic Violence (WCADV).

Legal advocacy is designed to empower victims engaged in the legal system. Survivors are increasingly relying on advocates for legal information and assistance. This is due to the number of survivors in the legal system who are unrepresented by attorneys or can't afford to hire an attorney. Sexual assault and domestic violence advocates are trained to provide legal information to survivors regarding options and to provide a sounding board for survivors as they make choices. However, advocates may not provide legal advice or engage in the unauthorized practice of law. Drawing the line between legal information and legal advice can be difficult and confusing. We hope the following chart can help advocates distinguish between the two. If advocates have questions as to how to sort through a specific situation, they are encouraged to call WCASA or WCADV for guidance.

An advocate can:	An advocate cannot:
Provide information to the victim to allow the victim to exercise her/his judgment.	Provide fact-specific information or conclusions based on the advocate's judgment or opinion.
Provide general legal information, including definitions of legal terms, statutory citations, court procedures, etc. *	Interpret the meaning or implications of statutes or court cases as they might apply to specific facts.
Provide general procedural information about the legal processes, such as the difference between civil and criminal cases, how to report a crime, court proceedings, etc. Advocates are encouraged to use language that conveys that victim/survivors have options and what those options are.	Provide legal advice or her/her opinion about whether and how to use court procedures. When explaining options, avoid using phrases like "You <u>should</u> ...".
Discuss legal and non-legal options, such as safety planning. For example, an advocate could provide information to a victim about sexual harassment in the workplace or information comparing different types of restraining orders.	Provide opinions or advice about specific legal remedies, strategies, or actions. For example, an advocate could not advise a victim about the likelihood of success in a sexual harassment in the workplace claim or whether or not a restraining order will be granted.
Provide general information about court process and court preparation, which can include but is not limited to: hearing basics, general information about testifying, proceeding without an attorney in court, exercising crime victim rights, etc.	Recommend or provide specific language or strategies for a specific set of facts, including testifying, questioning witnesses, objecting to evidence, or presenting evidence.
Facilitate the resolution of any concerns; such as accessibility, safety, etc.	Make legal demands on behalf of the survivor.
Provide information about forms and instructions on how to complete forms.	Recommend specific language to complete a form.
Attend interviews, hearings and proceedings at the request of the victim.	Tell a victim/survivor what s/he should do; interrupt interviews/proceedings; represent the victim/survivor.
Provide accompaniment during medical exams, interviews and legal proceedings.	Provide emergency legal services.

Advocates may feel overwhelmed by the legal needs of survivors. If you feel overwhelmed, remember that you are not expected to be an attorney and "fix" the legal needs for the survivor. Give yourself time to find relevant information and assess what you and your agency are able to do to support and help the survivor. It is OK to tell a victim that s/he really needs an attorney. At that point, facilitating the search for an attorney and/or providing support may be the extent of the services that the agency and the advocate can provide.

* See Wisconsin Attorney General Opinion, dated 6/20/94, on the service representative law.