

Literacy Issues

Adapted from *Handling Cases Involving Self Represented Litigants: A Benchguide for Judicial Officers*. Judicial Council of California (January 2007).

www.nlada.org/DMS/Documents/1176151729.08/CA%20pro%20se%20Benchbook.pdf

One of the ways we try to help self-represented parties have equal access to justice in the justice system is by creating or revising instructions and other documents so they are easily understandable. Unfortunately, information given in the written form is inaccessible to many people. More than 1 in 20 adults in the U.S. is not literate in English, and a much higher percentage – approximately 10% – would likely not be able to make sense of a simple pamphlet.¹ [On a related note, the Correctional Education Assoc. estimates that 65% of adult prisoners are functionally illiterate.²]

Recognizing Signs of Low Literacy

In *Judging for the 21st Century: A Problem-Solving Approach*, Justice Paul Bentley (Ontario Court of Justice, Ottawa, Canada) has written that:

Judges must learn to recognize and read the signs of low literacy. People may try to hide literacy problems by:

- Saying they cannot read a document because they forgot to bring reading glasses;
- Claiming to have lost, discarded, forgotten to bring, or not to have had time to read documents;
- Asking to take home forms to “read later”;
- Claiming to have a hurt arm and are therefore unable to write;
- Glancing quickly at a document and then changing the subject, or becoming traumatized, quiet, or uncommunicative when faced with a document;
- Hesitating when asked to read a document and/or reading it excessively slowly; or
- Appearing to read a document very quickly, although they are unable to summarize its contents.”³

People who have limited literacy skills often feel embarrassed, fearful, or inadequate in the court system, and they might behave in ways that seem to indicate a “bad attitude.” Emotional markers of limited literacy include appearing uncooperative, defensive, indifferent, evasive, frustrated, angry, or flippant.

¹ S. White and S. Dillow, *Key Concepts and Features of the 2003 National Assessment of Adult Literacy* (National Center for Education Statistics, U.S. Department of Education, 2005); available online at <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2006471>

² A. Bazos and J. Hausmann, *Correctional Education as a Crime Control Problem* (UCLA School of Public Policy and Social Research, 2004), p. 28.

³ P. Bentley, *Judging for the 21st Century: A Problem-Solving Approach* (National Judicial Institute, Canada, 2005). Available online at <http://www.nji.ca/nji/Public/documents/Judgingfor21scenturyDe.pdf>

Literacy Issues - *continued*

Overcoming the Literacy Barrier

To address low literacy in hearings, you can:

- Be aware of your own biases relating to low literacy. Remember – low literacy does not equal low intelligence.
- Educate yourself about low literacy in your community.
- Make it easier for people to understand:
 - Slow down
 - Do as much orally as possible
 - Speak clearly and repeat important information
 - Supplement oral information with written information that the person can mull over in private or have someone read later
 - Preview or read aloud documents in the hearing room
 - Use plain language instead of “legalese”
 - Use short sentences and clear language
 - Use words consistently
 - Use the active voice
 - Avoid strings of infinitives (“authorize and empower”)

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