

College of Advocacy Pre-Training Assessment Lawyer

*Listed below are statements about the knowledge and skills essential to your advocacy and leadership roles. Circle a number from 1-4 that most closely describes how you perceive your ability and need in each area. We encourage you to use the assessment to get feedback from your supervisor or experienced advocate who is familiar with your work. **Please bring this assessment with you to the training.***

Rating Scale:

1. UNCOMFORTABLE with my current ability/understanding (need to test my level of understanding and to receive feedback)
2. SOMEWHAT COMFORTABLE with my current ability/ and understanding (need to test my level of understanding and to receive feedback)
3. COMFORTABLE with my current ability/understanding (need some practice)
4. VERY COMFORTABLE with my current ability/understanding (no additional information or practice needed)

1. Cultural Competence

- A. 1 2 3 4 Awareness of your own cultural values.
- B. 1 2 3 4 Awareness that people of different cultures have different ways of communicating, behaving, and problem solving.
- C. 1 2 3 4 Ability to address cultural barriers that affect communication between advocates and clients, your organization and the client community.
- D. 1 2 3 4 Ability to represent your client's cultural perspective in a variety of forums.

E. 1 2 3 4 Ability to provide services that are meaningful and fit with the cultural beliefs and client lifestyles.

F. 1 2 3 4 Ability to balance between an individual's autonomy or freedom to practice personal beliefs vs. the right of a community to be protected from harm.

2. Communication/Interviewing

- A. 1 2 3 4 Able to manage time effectively in interviews or other client interactions.
- B. 1 2 3 4 Able to gather all the relevant information from the client, *i.e.*, operative facts, client opinions and objectives, documents, releases.
- C. 1 2 3 4 Able to express adequately to clients all necessary factual information, opinions and feelings.
- D. 1 2 3 4 Able to develop and maintain a climate of trust in the interview.
- E. 1 2 3 4 Able to involve the client actively in case decisions.
- F. 1 2 3 4 Able to attend the client using eye contact, intentional silence, attentive body posture, verbal invitations to talk and relevant note-taking.
- G. 1 2 3 4 Able to focus the interview and question the client through tactful interrupting, responding to relevant information, withholding responses to irrelevant information, and asking open and closed ended questions.
- H. 1 2 3 4 Able to reflect the interviewee's thoughts and feelings by restating, summarizing, and paraphrasing; imagining and reflecting the interviewee's feeling from nonverbal clues.
- I. 1 2 3 4 Able to express facts, opinions and feelings so that the interviewee understands and can act on them.

J. 1 2 3 4 Able to interpret the interviewee's situation by expressing new ideas or information for possible resolution, helping the interviewee see situations differently, re-casting problem to reveal more options, connecting disparate events/ideas and drawing conclusions.

K. 1 2 3 4 Able to use nonverbal communication effectively; correctly interpret non-verbal signals from others.

L. 1 2 3 4 Able to use strategies for dealing with communication-blocking events and "difficult" behaviors.

M. 1 2 3 4 Aware that establishing a climate of trust is essential to achieving interview purposes.

N. 1 2 3 4 Aware that interviewing skills are critical advocacy skills.

3. Oral Advocacy (Law & Motion)

A. 1 2 3 4 Able to summarize your case so that the court or tribunal understands the motion's context and the significance of the law and the facts without rehashing written argument.

B. 1 2 3 4 Able to express *a* thought with precision, clarity and economy.

C. 1 2 3 4 Able to express *thoughts* in an organized manner.

D. 1 2 3 4 Able to answer questions to the court's/tribunal's satisfaction and shift to issues that they want discussed.

E. 1 2 3 4 Able to identify and use appropriate non-verbal aspects of communications *e.g.*, appearance, poise, gestures, facial expressions, posture.

F. 1 2 3 4 Able to perceive the court's/tribunal's and opposing counsel's verbal and non-verbal communications and respond appropriately.

G. 1 2 3 4 Able to control and vary your argument to advance immediate and long-term objectives.

H. 1 2 3 4 Able to refute opposing arguments and defuse weaknesses in your case.

I. 1 2 3 4 Able to appear convinced of the rightness of your case.

J. 1 2 3 4 Able to conform to court or tribunal customs and courtesies without jeopardizing your client.

4. Problem Solving/Planning

A. 1 2 3 4 Able to identify the client's objectives.

B. 1 2 3 4 Able to analyze and organize the facts to identify any obvious factual gaps.

C. 1 2 3 4 Able to identify the possible claims or causes of action or defenses.

D. 1 2 3 4 Able to identify the possible remedies.

E. 1 2 3 4 Able to identify the facts that must be proven to prevail on claims or defenses.

F. 1 2 3 4 Able to analyze the strengths and weaknesses of the cast of characters involved in the case (parties, witnesses, trier of fact, institutions, the media, opposing advocate and yourself).

G. 1 2 3 4 Able to formulate a case theory.

H. 1 2 3 4 Able to predict the opponent's case theory.

I. 1 2 3 4 Able to analyze and select the appropriate forum for the case to be decided.

J. 1 2 3 4 Able to generate litigation and non-litigation solutions, strategies and tactics to achieve a client's goals.

K. 1 2 3 4 Aware of the necessity to have a written case plan.

5. Plan Discovery

- A. 1 2 3 4 Able to design a discovery plan that gathers necessary information in an efficient and effective manner.
- B. 1 2 3 4 Able to select discovery methods appropriate to gathering the information sought.
- C. 1 2 3 4 Able to sequence discovery methods in a way that maximizes the possibility of gathering necessary and useful information.
- D. 1 2 3 4 Able to anticipate an opponent's or agency's possible responses to discovery requests.
- E. 1 2 3 4 Able to formulate credible rebuttals to opponents' responses to discovery requests.
- F. 1 2 3 4 Aware of the necessity for thorough fact investigation in a case.

6. Preparing, Conducting and Defending Depositions

Preparing For a Deposition

- A. 1 2 3 4 Able to prepare to take a deposition in a way that maximizes the possibility of achieving its objectives.
- B. 1 2 3 4 Able to identify the overall objective of the deposition which you are taking.
- C. 1 2 3 4 Able to identify the specific information sought in the deposition.
- D. 1 2 3 4 Able to organize and outline the information sought from the deponent.
- E. 1 2 3 4 Able to formulate questions that achieve information gathering objectives.
- F. 1 2 3 4 Able to prepare to defend a deposition in a way that maximizes the possibility of protecting the deponent.
- G. 1 2 3 4 Able to identify the areas that will most likely be covered in the deposition when representing the deponent.
- H. 1 2 3 4 Able to anticipate possible objections to deposition questions.

- I. 1 2 3 4 Able to prepare the deponent for a deposition in a way that maximizes the deponent's ability to deal with questions and opposing lawyer's conduct.

Conducting/Defending a Deposition

- J. 1 2 3 4 Able to conduct a deposition in a manner which accomplishes its objectives.
- K. 1 2 3 4 Able to maintain an accurate record of the deposition.
- L. 1 2 3 4 Able to use and handle documents to achieve the deposition's objectives.
- M. 1 2 3 4 Able to maintain control over the deposition, the deponent and the opposing attorney.
- N. 1 2 3 4 Able to protect the deponent and the client's interests at a deposition.
- O. 1 2 3 4 Able to object appropriately to further the client's interests during the deposition.

- P. 1 2 3 4 Aware of the importance of thoroughly preparing the client for a deposition.

7. Planning and Conducting Negotiations

- A. 1 2 3 4 Able to prepare and plan for a negotiation in a way that maximizes the client's objectives.
- B. 1 2 3 4 Able to design a strategy that will support and implement the negotiation goals.
- C. 1 2 3 4 Able to use a negotiation style that maximizes the possibility of accomplishing your client's goals.
- D. 1 2 3 4 Able to negotiate a settlement that meets or exceeds the client's needs and instructions.
- E. 1 2 3 4 Able to assess the strengths and weaknesses of a case and the chances for prevailing in an adjudication.
- F. 1 2 3 4 Able to identify information needed before assessing settlement possibilities.

G. 1 2 3 4 Able to distinguish between positional bargaining and principled bargaining.

H. 1 2 3 4 Able to use and apply the vocabulary of positional bargaining in individual cases, *i.e.*, identifying: whether a bargaining range exists; both side's target and resistance points, leverage points, concession patterns, commitment points and justifications for each.

I. 1 2 3 4 Able to separate the "people" problems (communication, emotion and perception issues) from the negotiation's substance and deal directly with both issues.

J. 1 2 3 4 Able to focus on the interests of the parties and identify the concerns that lie behind stated positions.

K. 1 2 3 4 Able to identify options for mutual gain among the parties.

L. 1 2 3 4 Able to use objective criteria by which proposed solutions can be measured.

M.1 2 3 4 Able to build and maintain an effective, working relationship with the Other Side (O).

N. 1 2 3 4 Able to identify and strengthen your client's best alternative to a negotiated agreement (BATNA).

O. 1 2 3 4 Able to discover useful information from O, including O's needs and BATNA.

P. 1 2 3 4 Able to deal with O's dirty tricks during a negotiation.

Q. 1 2 3 4 Aware of the importance of thorough preparation for negotiations.

R. 1 2 3 4 Able to identify dispute resolution methods other than litigation and their appropriateness in accomplishing client goals and meeting the needs of poor, disabled, and other underrepresented communities.

8. Managing Your Practice

A. 1 2 3 4 Able to allocate time, effort and other resources necessary to carry out caseload tasks.

B. 1 2 3 4 Able to coordinate tasks and efforts with all other staff members.

C. 1 2 3 4 Able to work according to your organization's systems, rules and procedures governing handling of cases and files.

D. 1 2 3 4 Able to improve the system, rules and procedures governing handling cases and files to suit your needs.

E. 1 2 3 4 Able to maintain a productivity level that conforms to a standard of high quality service.

F. 1 2 3 4 Able to judge when further commitments cannot realistically be discharged competently.

Leadership

1. Organizational & Group Culture

A. 1 2 3 4 Able to identify the central cultural values that will promote your organization's effectiveness.

2. Communication

A. 1 2 3 4 Able to express information, ideas, suggestions and feelings to others in a way that maximizes the possibility that your message will be received.

B. 1 2 3 4 Able to give feedback on how you perceive (see, hear and interpret) others' behavior, accurately mirroring how you perceive the behavior leaving them to made changes and corrections.

C. 1 2 3 4 Able to listen actively — to receive another's message so that you can restate the message to the speaker's satisfaction.

D. 1 2 3 4 Able to identify the barriers, filters and socialization patterns that affect the communication process.

3. Leading

A. 1 2 3 4 Able to build and nurture your own strengths.

B. 1 2 3 4 Able to model the way — lead by doing and building commitment to action through small wins.

C. 1 2 3 4 Able to enable others to act – getting people to work together and strengthening others by sharing power and information.

4. Teams & Groups

A. 1 2 3 4 Able to identify the characteristics of effective and high performing groups.

B. 1 2 3 4 Aware that the people's ability to work together as a team is a critical component of organizational productivity in the 21st century.

C. 1 2 3 4 Able to identify strategies to improve your team's or workgroup's ability to achieve mutually established objectives.

5. Diversity

A. 1 2 3 4 Able to identify the dimensions of diversity — age, race, ethnicity, gender, physical abilities and sexual orientation, and their impact on individual perceptions and communication styles.

B. 1 2 3 4 Able to identify ways to discover and appreciate the core beliefs, values and behaviors of all groups represented in the organization including your own.

6. Self Management

A. 1 2 3 4 Able to identify a personal vision, a set of goals and a pathway to meet them.

B. 1 2 3 4 Able to use your time and energy in your priority areas.

C. 1 2 3 4 Able to experiment with several strategies to solve problems and avoid persisting in failed strategies.

D. 1 2 3 4 Able to describe how to reduce, prevent, and cope with your stress.

E. 1 2 3 4 Able to create individual development plans (IDPs) that (1) identify the knowledge or skills that you need to improve performance; (2) analyze the specific steps and resources required to acquire these skills; and (3) design an overall method for achieving improvement.

7. Conflict Resolution

A. 1 2 3 4 Able to separate the "people" problems (communication, emotion and perception issues) from the conflict situation itself and deal directly with both issues.

B. 1 2 3 4 Able to focus on interests of everyone involved in the conflict and identify the concerns that lie behind stated positions.

C. 1 2 3 4 Able to identify options for mutual gain of all the parties.

D. 1 2 3 4 Able to use objective criteria by which proposed solutions could be measured.

E. 1 2 3 4 Able to build and maintain an effective, working relationship with all persons involved in the conflict situation.

F. 1 2 3 4 Able to identify and strengthen your best alternative to a negotiated agreement (BATNA).

G. 1 2 3 4 Able to discover useful information from all sides of the conflict including needs and BATNAs.

H. 1 2 3 4 Able to resolve a conflict situation that meets or exceeds everyone's needs.