

VOLUNTEERS *of* LEGAL SERVICE

VOLS

Cultural Competence and Humility in Pro Bono Practice

Updated April 2021

Volunteers of Legal Service



VOLS was founded over 35 years ago to close the justice gap through partnerships with community organizations, law firms and corporations. We train and work with pro bono attorneys from law firms and corporations to provide free legal services to our clients.

Immigration
Project

Children's
Project

Elderly Project/
Veterans Initiative

Unemployed Workers
Project

Microenterprise
Project

Frontline & Healthcare
Workers Initiative

Incarcerated Mothers
Law Project

Jericho
Project

Presenters



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Pro Bono Skill-Building



- Introducing cultural competence and humility
- Understanding your professional obligations
- Reflecting on what you bring to the table
- Discussing best practices for client-centered work
- Reviewing further resources

Introduction



Cultural competence is the ability to adapt, work and manage new and unfamiliar cultural settings. See, Sylvia Sevens, *Cultural Competency: Is There an Ethical Duty*, Oregon State Bar Bull. (Jan. 2009).

- Over 350 languages
- 13% of population born outside US
- Attorneys must become culturally competent to effectively serve their evolving and diverse clients.

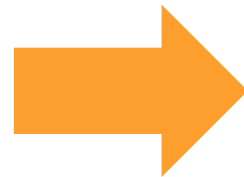


Professional Obligations Supporting Cultural Competence in the Legal Practice

Professional Obligation as Attorneys



- NY Rule of Professional Conduct 1.1, Competence: a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.



Moreover, the comments of New York Rule of Professional Conduct 1.3, Diligence, explains that a lawyer must also act with commitment and dedication to the interests of the client and in advocacy upon the client's behalf.

Professional Obligation as Attorneys



ABA issued Formal Opinion 498 on March 10, 2021:

"...especially when practicing virtually, lawyers must fully consider and implement reasonable measures to safeguard confidential information and take reasonable precautions when transmitting such information."

Lawyers practicing remotely "must fully consider and comply with...applicable ethical responsibilities, including technological competence, diligence, communication, confidentiality, and supervision."

ABA Comm. On Ethics & Prof'l Responsibility, Formal Op. 498 (2021)

Professional Obligation as Attorneys



Cultural competence and humility are part of the professional obligations for every attorney to be competent and deliver effective counsel.

Not just a feel-good idea: This is your professional responsibility as an attorney to provide competent representation

- Must understand your own identity & how to communicate effectively with clients around their circumstances and about their life
- Without being able to do so, your representation will fail to fulfill your ethical obligations as an attorney



Self-Reflection

Understanding Key Terms & Concepts

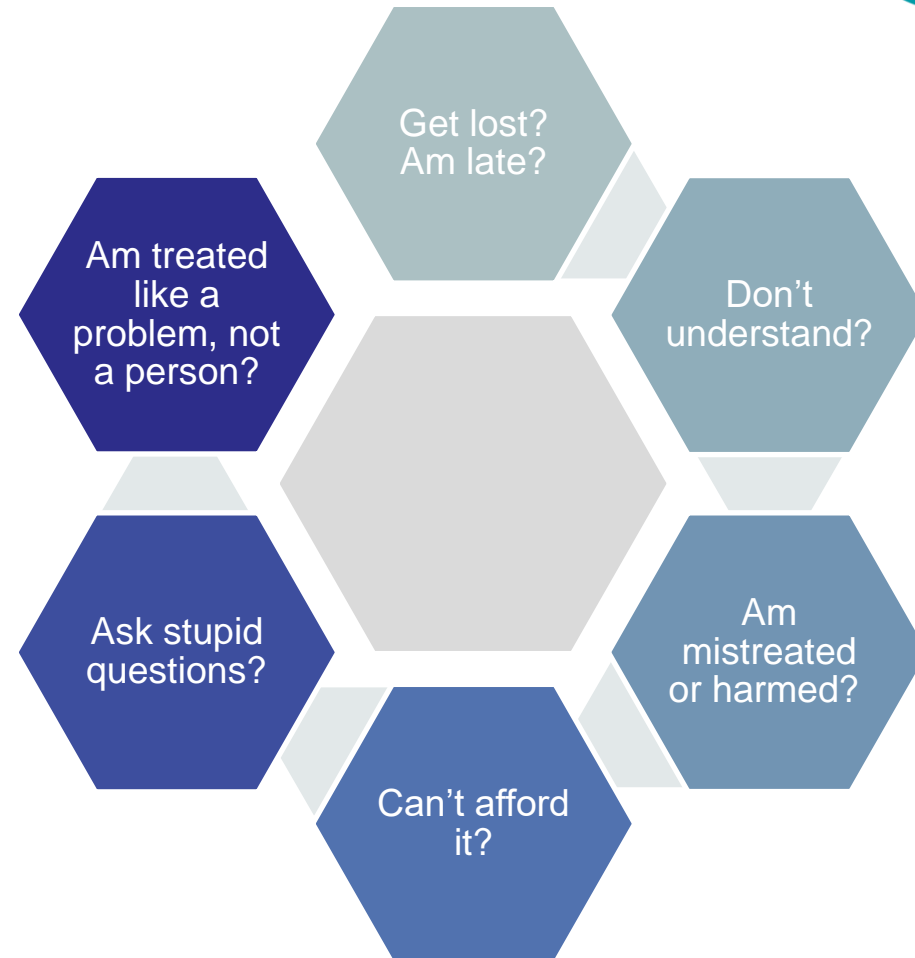


How do you feel during encounters with?





What if I:



Self-Reflection



Think about why you're doing this work

What brought you here today? What is your prior contact with systems like this one?



Check your assumptions about who your client is and what they *need*



Stay flexible



If you don't know something, **ASK!**

Remember that clients are the experts.

Key Terms: Cultural Humility



"a lifelong process of self-reflection and self-critique whereby the individual not only learns about another's culture, but one starts with an examination of her/his own beliefs and cultural identities."

- The National Institutes of Health (NIH)

- Start with examining yourself and your own background
- Only then can you effectively collaborate with a client on their needs

Key Terms: Cultural Competence



- Awareness and acceptance of cultural differences
- Knowledge of one's own cultural values
- Recognition that people of different cultures may have different ways of communicating, behaving, interpreting and problem solving
- Recognition that cultural beliefs and behaviors may impact a client's legal beliefs and interactions with legal professionals
- An ability and willingness to adapt the way one works to empathize with the client's cultural background in order to provide the highest quality legal assistance

Key Terms: Implicit Bias



- Implicit bias is the unintentional or unaware act of grouping persons or things into categories that can lead to discriminatory behaviors.
- The danger of implicit bias lies in the lack of self-awareness because it can present itself and allow discrimination not only in situations of conflict, such as in litigation, but also in situations without conflict, such as in interactions with clients.
- Implicit bias can lead to a lack of effort and, sometimes, a violation of an attorney's duties of diligence and competence by imposing past experiences or expectations, rather than the client's individual wishes and desires.
- Most importantly, implicit bias can lead to a deterioration of the requisite trust and comfort between a client and attorney.

Trauma in the Body



SOME PHYSICAL MANIFESTATIONS:

Body Language

- Stillness or lack of affect
- Agitation
- Inability to maintain eye contact

Memory loss or gaps

Missing or being late to appointments

Not turning video on for remote calls

SOME HELPFUL TERMS:

- Flooding
- Dissociation
- Fight, flight, or freeze
- Avoidance



Best Practices for Working With Clients

Understanding How Past and Ongoing Experiences Impact Legal Representation



BUILDING TRUST

- Treat all clients with **respect**
- Show **empathy**
 - Clients may have prior negative experiences with agencies, attorneys, or the legal system
 - May be embarrassing or intimidating to seek help
 - Ask if they have questions, not whether they understand
 - Ask what led to a choice, not why they made it
- Stay **client-centered**
 - What is the client's motivation for contacting an attorney?
 - What are their priorities?

Best Practices



Responsibilities	Juggling multiple responsibilities and obligations
Crises	Experiencing a personal emergency or crisis
Counsel	Seeking and obtaining legal counsel
Priorities	Making following legal advice a priority
Scheduling	Keeping appointments with their attorney
Responding	Responding to and working with government bureaucracies



Communicating Effectively



Ask client their preferred method and timing of communication and update you if it changes



Ask about work schedules or other obligations



Explain legal terms – don't assume client understands because they don't ask questions



Review written documents orally



Be aware that client might be accustomed to different communication styles in their professional or personal lives



CLIENT INTERVIEWING TIPS PT. I

Initial meeting is important

- Make sure to **explain your role** carefully and manage expectations
- Assess need for **interpreter**
- Try not to make **assumptions or judgments**

Avoid **auto-pilot**

Ask **open-ended questions**

Practice **active listening**



CLIENT INTERVIEWING TIPS PT. II

- Grounding: lead in and out of conversations
- Don't express entitlement to information
 - Always explain WHY you need to know something, rather than demanding answers
- Leave space for quiet
- Don't leave someone in an agitated state, leave time to decompress
- Ask what else clients have planned for the day to help transition out of difficult conversations



MEETING WITH CLIENTS REMOTELY

Navigating technology access

- Consider: language access, literacy levels, having laptops /phones with cameras and speakers, reliable internet

Acknowledging time restrictions

Ensuring privacy / confidentiality

Asking if they feel safe in their home

[If video] Considering what your workspace says about you



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Troubleshooting Client Relationships



Responsiveness and missed appointments

- Sometimes clients miss appointments because a crisis occurred, they couldn't get time off work, or didn't have transportation or childcare
- Be flexible and offer accommodations
- Be persistent and follow-up in different ways and at different times
- Don't take it personally or assume client isn't taking the case seriously

Troubleshooting Client Relationships



Issues with communication

- Clients may or may not be accustomed to working with attorneys or with legal terms
- Meet face to face if possible
- Set clear and reasonable expectations
- Ask client if they need to take a break during a long meeting or phone conversation
- De-escalate difficult conversations

Troubleshooting Client Relationships



Multiple crises

- Be patient and understand that clients have other priorities that may take precedence
- Don't feel you need to solve every problem a client has

Costs

- Small costs might feel very large to someone with little money. Empathize. Consult with your pro bono counsel about your firm's policies on these costs.

Some Resources for Further Inquiry



Written materials provided

Books:

- *The Body Keeps the Score*, by Bessel van der Kolk, M.D. (2014)

Audio:

- Justice in America, Episode 12, [The Criminalization of Poverty](#)

Video:

- ["Cultural Humility: People, Principles and Practices"](#) by Vivian Chávez (documentary)
- [TedTalk from Juliana Mosley, PhD](#)



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Volunteering
with VOLLS?

Reach out to:

pkempner@volsprobono.org

Or visit our website:

<https://volsprobono.org/>

And learn more about our volunteer opportunities!