

Memphis Law 2019 1L Orientation
Professional Cultural Competence for Law Students—Preparation Study Guide

1. Overview

a. Why learn cultural competence in law school?

- i. Cultural competence has become increasingly important in legal environments. With clients from diverse backgrounds, and business demands on lawyers to exhibit cultural competence, it is essential that law students and lawyers have a comprehensive understanding of what it means to be culturally competent, how to seek cultural competence, and what the benefits of cultural competence are in legal practice.
- ii. Our orientation session, *Professional Cultural Competence for Law Students*, will introduce students to a variety of areas in which cultural competence may be needed in the practice of law, explore means for becoming culturally competent, and address the benefits of such competency in both communicating with clients and presenting cases to the court or performing other types of advocacy.

b. Objectives of this Study Guide—

- i. Prepare students for the *Professional Cultural Competence for Law Students* Orientation Session by forming a basic understanding of what is meant by lawyer “cultural competence”;
- ii. Review the American Bar Association Model Rules of Professional Conduct that create a professional responsibility for lawyers to become culturally competent;
- iii. Encourage students to think deeply about the importance of cultural competence to lawyering and legal education, prior to the *Professional Cultural Competence for Law Students* Orientation Session.

c. How to use this Study Guide—

- i. Complete each part of this study guide prior to our orientation session in the order that it appears herein, hopefully sometime before the day of the session (August 13th). Cultural competence learning is most effective if participants have been thoughtful about the covered topics in advance.
- ii. Approach each part of this guide as you should any other new assignment in law school—by accepting the challenge and exhibiting the willingness to “grow” in an area you are not already proficient. More than anything, it is important to be open minded to what you will hear and might learn!

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2. What is cultural competence?

- a. **You will find that there are many ways to define “cultural competence.” Google the terms “cultural competence” and/or “define cultural competence.”**
 - i. Several articles and/or definitions will appear in your search.
 - ii. *Other terms often used in the context of describing cultural competence are: “intercultural competence,” “culturally responsive lawyers,” “cross-cultural competence,” “intercultural compassion,” and “intercultural awareness,” and “cultural literacy,”*
- b. **From those definitions that you find, synthesize, the meaning for your own reference in 2-3 sentences.**
 - i. Be prepared to share your synthesis in our Orientation Session.

3. Exercise 1: Importance of Cultural Competence as a lawyering skill

- a. **Now that you have reviewed definitions, list at least five reasons why cultural competence is important as a lawyering skill.**
 - i. You may add to this list as you proceed through this study guide. Be prepared to share your five reasons in our Orientation Session.
 - ii. For example: “Cultural competence is an important lawyering skill because lawyers may not ask all the appropriate questions of clients through the course of representation if they are not familiar with the client’s cultural norms.”

5 Reasons cultural competence is important as a lawyering skill:

- 1.
- 2.
- 3.
- 4.
- 5.

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4. Review of Rules on Lawyer’s Professional Responsibility to Demonstrate Cultural Competence

- a. The American Bar Association *Model Rules of Professional Conduct* were adopted by the ABA House of Delegates in 1983. The rules serve as models for the ethics rules for lawyers of most jurisdictions.
- b. Review [ABA Model 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.

- i. Also Review [Model Rule 1.1 Competence, Comment 2](#)—

Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge.

- c. Review [ABA Model Rule of Professional Conduct 1.3: Diligence](#)—

A lawyer shall act with reasonable diligence and promptness in representing a client.

- i. Also Review [Model Rule 1.3: Diligence, Comment 1](#)—

A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf.

- d. Review [ABA Model Rule of Professional Conduct 8.4\(g\): Misconduct](#)—

It is professional misconduct for a lawyer to:

[...]

(g) engage in conduct that the lawyer **knows or reasonably should know** is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in **conduct related to the practice of law**.

- i. Also review [Model Rule 8.4: Misconduct, Comment 4](#)—

Conduct related to the practice of law includes representing clients; interacting with witnesses, coworkers, court personnel, lawyers and others while engaged in the practice of law; operating or managing a law firm or law practice; and participating in bar association, business or social activities in connection with the practice of law.

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5. Exercise 2: The Model Rules & Cultural Competence

- a. Review your synthesis definition of “cultural competence” and five reasons cultural competence is important as a lawyering skill.
- b. Now, looking at the ABA Model Rules above on (1) competence, (2) diligence, and (3) lawyer misconduct, write a NEW ABA Rule and/or comment on the professional responsibility of lawyers to demonstrate cultural competence in client representation? You may also simply re-write one of the above existing rules.
 - i. Be prepared to share your answer in our Orientation Session.

NEW ABA Rule or comment on the professional responsibility of lawyers to demonstrate cultural competence in client representation:

6. Areas of Cultural Competence

- a. Because lawyers often do not know the interest they may at some point represent, or that may come into play in practice, it is important that lawyers develop cultural competence in a number of broad and common areas, including but not limited to:

Mental Illness/Mental Health
Disabilities – Cognitive, Learning, Physical
Educational/Reading Level
Gender/Gender Identity
Sexual Orientation/LGBTQIAA+ Status
Religion/Spiritual
Race and Ethnicity
Language
Geographic Differences
Economic and other Life Experiences

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7. Exercise 3: Self-identifying areas of cultural competence

- a. Imagine you must represent a client with any number of the above cultural group differences from your own. Answer the following:
 - i. **List the above areas you feel more proficient and equipped to handle. How would your proficiency in those areas impact your desire and ability to help the potential client?**

 - ii. **List the above areas you feel less proficient and equipped to handle? How would your lack of proficiency in those areas impact your desire and ability to help the potential client?**

8. Exercise 4: Cultural Group Self-Reflection—

- a. **Definition of “Cultural groups”:** “... groups of people who consciously or unconsciously share identifiable values, norms, symbols, and some ways of living that are repeated and transmitted from one generation to another.”
 - i. Cultural groups are generally a good thing! As humans we are validated, accepted, and we learn from our cultural groups.

- b. **List as many cultural groups that you belong to as you can.** E.g., male/female, Christian, southern, middle-class, etc.

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9. Implicit Associations as a Cultural Competence Inhibitor—

- a. One inhibitor to lawyer cultural competence is our own biases (our inclinations in favor or against various cultural groups) and implicit associations (our automatic associations with specific cultural groups), especially toward individuals from cultural groups different from our own.
- b. Unfortunately, most of us have limited experience with cultural groups outside our own. As a result of this and other societal factors, **all individuals have biases and implicit associations, even those from racial minority and/or with economic disadvantaged cultural groups.**
- c. One way of becoming more culturally competent is developing better awareness of our own existing biases and associations that we have learned over years of conditioning by our environments, media, and other influences.
- d. We tend to get our biases and implicit associations honestly and innocently from our parents and other family, friends/peers, school/education, media/entertainment, and perhaps from limited superficial exposures to other groups.
 - i. Psychological research suggests that this is one reason biases and implicit associations are so hard to shake—most of us have gotten them from benign sources that we often hold dear and/or trust.
- e. Also note:
 - i. Implicit biases and associations are malleable and can be changed [Dasgupta, Kang]
 - ii. Motivation to change biases and associations (or to de-bias) requires that we know there is an issue. Recognizing our implicit biases and responses, through use of the Implicit Association Test (IAT), for example, can provide this motivation. [Kang, Ramirez, Blair].
 - 1. *We will learn about additional de-biasing strategies in our Orientation Session.*
 - iii. Implicit biases and associations can also be changed when people invest the effort to practice specific strategies to promote individuation and avoid stereotypic or prejudicial responses.

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10. Exercise 5: Self-evaluate for Potential Biases and Implicit Associations—

a. Complete a “Trust List”

- i. See the attached “Trust List Chart” at the end of this guide. On this chart, complete all the information requested for the 9 people that you trust the most.
- ii. After completing, look at the demographics of those on your list.
- iii. Research suggests that for most people, most of the people on your list likely belong to your own cultural groups in a number of ways.
- iv. Additionally, for most people, the less diverse your list, the less trusting you are likely of cultural groups not listed and the more likely you hold implicit associations about cultural groups unrepresented on your list.
- v. *Note: A similar exercise could be completed for favorite media influences.*

b. Take an Implicit Association Test at projectimplicit.com

- i. Implicit Association Tests are not tests to see if you are racist or sexist.
- ii. Instead, these test tell you about the implicit associations you make with specific cultural groups.
- iii. You will not be asked to discuss your results in the Orientation Session or any other forum. This is for your own personal understanding and reference only.
 1. However, in the session we will ask by show of hands, how many took a test.

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