

NEW LAWYER TRAINING PROGRAM



MENTOR MANUAL 2021

CONTACT INFORMATION

Utah Law and Justice Center

Elizabeth Wright, Executive Director
801•297•7028
E-mail: director@utahbar.org

Carrie T. Boren, Esq., Administrator
801•297•7026
E-mail: carrie.boren@utahbar.org

NLTP E-mail: mentoring@utahbar.org

645 South 200 East, Suite 310
Salt Lake City, UT 84111
Fax: 801.531.0660
▪
www.utahbar.org

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please call the NLTP at (801) 297-7026

Table of Contents

Contact Information.....	2
Program Goals.....	4
A Brief History of the Evolution of Utah’s NLTP.....	4
The Benefits of Effective Mentoring.....	6
Advice to Mentors.....	6
Need for Strong Institutional Support.....	6
Relationship to Continuing Legal Education (CLE).....	9
Mentor Qualifications.....	9
Mentor Training.....	9
Certifying Completion of the Program.....	10
Law School Credits.....	10
Changing Mentors.....	11
Managing the Mentoring Relationship.....	12
NLTP Supreme Court Rule 14-808.....	13
New Lawyer Training Program: Policies and Procedures.....	14
Practical Mentoring.....	15
2015 Mentor and New Lawyer Survey Responses.....	18
Checklist – Steps to Completion.....	20
Initial Meeting Guide.....	21
Mentoring Plan.....	24
Required experiences.....	24
Elective activities and experiences.....	29
Mentor Resources.....	35

PROGRAM GOALS

The goals of the Utah State Bar New Lawyer Training Program are to train new lawyers during their first year of practice in professionalism, ethics, and civility, to assist new lawyers in developing the practical skills and judgment necessary to the effective practice of law, and to impart to all Utah attorneys the importance of organizational mentoring.

A BRIEF HISTORY OF THE EVOLUTION OF UTAH'S NLTP

Several studies have attributed the lack of post-licensure mentoring to many problems confronting the legal profession. These problems include increased attrition in the profession, a decrease in professionalism and civility among members of the bar, and job dissatisfaction. According to studies, only one-third of associates remain at the firm where they started their legal career after five years. A lack of mentoring or misrepresentations regarding mentoring is cited by these associates as a key reason for leaving. Additionally, scholars and organizations have expressed concern regarding the lack of effective mentoring of new lawyers and the failure of law schools to provide sufficient practical experience during law school. *See, e.g.,* ROY T. STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007); WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, EDUCATING LAWYERS: PREPARATION FOR THE PRACTICE OF LAW (2007); IDA O. ABBOTT, DEVELOPING LEGAL TALENT: BEST PRACTICES IN PROFESSIONAL DEVELOPMENT FOR LAW FIRMS (2001); Karen Steinberger, *Law Firm Mentoring: A Fresh Look at an Ancient Concept*, ASSOCIATION OF LEGAL ADMINISTRATORS, ALA MANAGEMENT ENCYCLOPEDIA (2007).

In September 2005, the Honorable Antonin Scalia, Justice of the United States Supreme Court; the Honorable Deanell R. Tacha, then Chief Judge of the United States Court of

Appeals for the Tenth Circuit; and Alan Sullivan, managing partner of the Salt Lake City office of Snell and Wilmer, developed a discussion paper entitled, "A Brief Comparison of the Training and Accreditation of Lawyers in the United States and the United Kingdom." (Unpublished article, on file with the Bar) The discussion paper suggests that most new lawyers are not well prepared for the practical aspects of practicing law particularly since on-the-job training is not a condition of admission to the Bar. The discussion paper recognizes that while mentoring of new lawyers is crucial, the quality of mentoring is neither regulated nor coordinated by either the profession or law schools, with mentoring frequently an afterthought and rendered subordinate to billable hours and the demand to provide legal services. The paper was presented to the Utah appellate judges in spring 2006 and to the Bar Commission in early 2007. The discussion paper generated considerable dialogue between the Utah Supreme Court and Bar leadership.

As a result of these discussions, the Utah Supreme Court, through Chief Justice Christine M. Durham, requested that the Bar Commission consider implementing a mentoring program to assist newly admitted lawyers during their first year of practice. In response, the New Lawyer Training Committee (NLTC) was formed to study the concept, evaluate mentoring programs in other states and to develop a proposal for Utah.

The NLTC and its subcommittees met periodically for about 18 months to develop the NLTP. During that time, a few states or bar organizations adopted mentoring programs. The NLTC reviewed most of the new lawyer mentoring programs in the United States, including the nation's leading and most respected program, Georgia's "Transition into Law Practice." Members of the NLTC and key bar staff met with the director of Georgia's mandatory mentoring

program to obtain an understanding of the details and administration of its program. Additionally, members of the NLTC attended the “First National Conference on Mentoring” at the Center on Professionalism at the University of South Carolina School of Law. This conference resulted from a request by the Conference of Chief Judges of the United States.

Moreover, the NLTC studied Delaware’s Preceptorship Program, which requires at least five months of training in the practice before licensure is allowed. The NLTC opted against a licensure requirement of this type, instead recommending mentoring during the first year of practice as a requirement for maintaining licensure.

Upon study and review of formal mentoring, the NLTP was presented to and adopted by the Bar Commission on July 16, 2008 and formally approved by the Utah Supreme Court on December 18, 2008. The Bar and the Supreme Court believe that effective implementation and administration of the NLTP will have a dramatic impact on current law practice. Mentoring not only includes training a new lawyer in the art of practicing law but also provides an opportunity for support, friendship, and sharing confidences. It is a place to vent problems and concerns without fear of recrimination. And, it is an opportunity to explore life and family balance. It is the vehicle by which the enjoyment of law practice can be enhanced and the retention of good lawyers in the profession increased.

THE BENEFITS OF EFFECTIVE MENTORING

Increases productivity for the individual and the organization
Improves client relations and client attraction
Increases the retention rate of new lawyers
Boosts morale
Assists in attracting better talent to the organization
Enhances work and career satisfaction
Clarifies professional identity and accomplishments
Increases advancement rates
Promotes greater recognition and visibility
Teaches new attorneys the practical skills necessary to the practice of law
Increases networking and career development opportunities

ADVICE TO MENTORS

To the Mentors:

Thank you for accepting the challenge to train a new lawyer and for your willingness to be a friend and share your experience and talent. As a mentor for the NLTP, you are in a different role than that of supervisor, editor, or critic. A mentor is a wise and loyal advisor, a teacher or coach. A mentor is also an experienced and trusted counselor.

Despite your busy practice, you are encouraged to devote the time and environment necessary to assist your new lawyer in his or her professional development. Being a mentor is hard work and requires a commitment to attend scheduled meetings. A good relationship cannot be built in ten-minute segments. There is no substitute for spending the time

needed to build a long-lasting and meaningful mentoring relationship. Create a safe context for growth. Keep confidences, build trust and teach the art and practical aspects of thinking like a lawyer. Be sensitive to work/family issues. Treat the relationship as an opportunity for mutual learning. Provide constructive feedback. Remember to be respectful and responsive, even when new lawyers ask what may seem like dumb questions.

Utah State Bar Committee on New Lawyer Training

The USBC on New Lawyer Training is made up of bar members serving a one-year term. The Committee represents the bar membership by bringing together attorneys from large and small firms, government agencies, and members of court. The members are responsible for recruiting and approving mentors and reviewing, evaluating, and creating policies for the NLTP. The committee also assists in the development of valuable resources for mentors and new lawyers and builds relationships with firms, agencies, and other organizations for building an effective mentoring program.

NEED FOR STRONG INSTITUTIONAL SUPPORT

With adequate institutional support, this program will exceed our expectations. The Supreme Court and Bar are so supportive of mentoring that the NLTP is a mandatory program. Now, firms, agencies, and employers have the opportunity to fold mentoring into their plans, administration and training. We suggest that each organization appoint an attorney mentoring coordinator to implement and monitor a mentoring program. Members of the USBC on New Lawyer Training are available to share resources and meet with you to assist in developing an effective mentoring plan.

NLTP Frequently Asked Questions

The following provides answers to many questions regarding the NLTP. However, complete program details are contained in the NLTP Policies and Procedures. All new lawyers are responsible for reading and understanding the details of the NLTP. If you have questions, contact the NLTP Coordinator at mentoring@utahbar.org.

Prior to the NLTP, were there mandatory CLE requirements for New Lawyers?

Yes. Since 1991 until the implementation of the NLTP, new lawyers have been required to attend special CLE programs designed to bridge the gap between law school and the practice of law. Immediately prior to the adoption of the NLTP by the Utah Supreme Court, new lawyers were required to complete the New Lawyer Continuing Legal Education (NLCLE) program. This program consisted of attending CLE seminars developed for new lawyers. The NLCLE was a two-year program and provided all CLE credits for the initial MCLE reporting period after admission to the Bar.

Where would I find NLTP materials, forms and resources?

All NLTP materials and resources are available on the [NLTP web platform](#). The NLTP is no longer accepting paper forms. If you require a copy of the forms for reference purposes, please contact the NLTP Administrator

Who is required to participate in the NLTP?

Lawyers with less than two years of practice experience who are admitted to the Utah State Bar are required to complete the program if they maintain an active license and practice law in Utah.

Who is not required to participate in the NLTP?

- (1) Attorneys with active Utah licenses who do not reside in Utah are not required to participate in the NLTP. Instead, these attorneys must comply with the regular MCLE requirements for active Utah lawyers. Those requirements are on the Utah bar website [here](#).
- (2) Attorneys admitted to practice in Utah after being actively engaged in the practice of law for at least two years in another state prior to admission to practice law in Utah.
- (3) Judicial clerks' participation in the NLTP is deferred during their clerkships. (Refer to Policies & Procedures for more information).
- (4) New lawyers with active Utah licenses who are either unemployed or not engaged in the practice of law may petition the NLTP Office for a six-month deferment.

How does a new lawyer enroll in the program?

New lawyers will enroll in the NLTP through the [NLTP web platform](#). New lawyers must complete and submit all enrollment materials by the deadline established for submission of licensing materials but no later than 90 days after expiration of that deadline.

Who pays for the program?

For the entire New Lawyer Training Program each new lawyer pays \$300.00. The fee is payable in two installments of \$150. The first installment is due with the enrollment materials and the second installment is due with the completion materials.

How do the new lawyer and mentor devise an appropriate mentoring plan?

The Utah Bar has created a model mentoring plan, available on its website. While there is great flexibility in designing a particular plan, certain components of the Model Plan are required. Further, care should be taken so that the selected plan fosters discussion and implementation of professional skills and values. Specific instructions on developing the plan are included in the Model Mentoring Plan.

How long does the program last?

The program lasts twelve (12) months.

How often are the new lawyer and the mentor expected to meet?

The new lawyer and the mentor should meet 10 times throughout the term. Each meeting should be at least two hours long. Although the program only lasts twelve months, the mentoring relationship may last beyond the required timeframe.

What kind of mentoring relationships are there?

There are two types of mentoring relationships:

- (1) **Inside Mentoring.** A mentor from within the new lawyer's own office is chosen. The mentor and new lawyer work together to fulfill the

mentoring plan in connection with actual assignments handled in the office.

Direct supervisors (i.e. responsible for the new lawyer's normal assignments in the office) are prohibited from mentoring new lawyers unless exigent circumstances exist. This prohibition facilitates confidentiality and promotes the goals of the program. However, the mentor and the supervising attorney should work together, as is appropriate, to coordinate projects completed as part of the plan.

- (2) **Outside Mentoring.** A mentor who is not in the same office as the new lawyer (e.g., from small firms or solo practice) will aim to provide mentoring experiences as would be available for a new lawyer within the mentor's office. The mentor participates in as many of the assignments with the new lawyer as possible or gives approval to the new lawyer for work performed under the supervision of another qualified mentoring attorney ("mentor for the assigned activity"). Care should be taken to reduce problems associated with conflicts of interest, confidentiality, and liability limitations.

RELATIONSHIP TO CONTINUING LEGAL EDUCATION (CLE)

How does the NLTP relate to required CLE?

All attorneys who maintain an active license in Utah are required to complete 12 hours of continuing legal education (CLE) every year. Compliance with the CLE requirements is mandatory and must be reported to the Mandatory Continuing Legal Education (MCLE) department *ever year*.

The NLTP fulfills the requirements for one entire year of MCLE and should be completed within the first year of licensure. If a new attorney is unable to enroll within that time period, the new attorney must still complete any MCLE requirements and report their compliance as required by the [MCLE office](#).

Are there any required CLEs during the NLTP?

Yes. New Lawyers are required to attend the New Lawyer Ethics Program during the NLTP period. The seminar is offered twice per year, in the spring and fall. New lawyers should consult the CLE calendar to determine dates of the seminar. The CLE events calendar is available on the Utah bar website at: <http://www.utahbar.org/cle/#calendar>.

CLE regulatory questions and compliance with CLE questions can be forwarded to the Utah Board of Continuing Legal Education at MCLE@utahbar.org.

MENTOR QUALIFICATIONS

What are the qualifications to serve as a mentor?

Qualifications for mentors include (i) seven years of practice; (ii) no past or pending public or formal discipline proceeding of any type or nature by a court or a state bar; (iii) malpractice insurance in an amount of at least \$100,000/\$300,000 if in private practice; and

(iv) approval by the USBC on New Lawyer Training.

Upon approval by the Utah State Bar, mentors are required to complete Mentor Training. All approved mentors available to mentor (i.e. not currently mentoring a new lawyer) are listed online on the “List of Available Mentors.”

Why are mentors required to have minimum levels of professional liability insurance, or the equivalent?

Serving as a mentor in the New Lawyer Training Program is not an ordinary volunteer opportunity—it is a Utah State Bar appointment. Therefore, it is appropriate to view minimum levels of professional liability insurance coverage as a requirement in determining whether or not a potential mentor handles the business management of his or her law practice in a responsible manner.

MENTOR TRAINING

Is the mentor training required?

Yes, the mentor training is required.

The mentor training is a two-hour program created by the NLTP. There are two methods of receiving mentor training: (1) attend the mentor training seminar offered once per year at the Utah State Bar Law & Justice Center; or (2) attend the online mentor training course available on the Utah Bar’s website. The live training course is complimentary to the mentor and is accredited for two hours of CLE in Professionalism and Civility. Mentors are required to repeat the course every two years.

What is included in the mentor training program?

The Mentor Training and Orientation is designed to educate mentors about the NLTP,

program requirements and goals and to provide mentoring tips for NLTP mentors.

CERTIFYING COMPLETION OF THE PROGRAM

How does completion of the NLTP get certified?

The mentor submits a Certification of Completion through the NLTP web platform. By submitting the Completion Certification, the mentor verifies that the New Lawyer and mentor have met ten (10) times over the course of twelve months and that the New Lawyer has completed the selected activities in his or her mentoring plan. The form is then submitted to the NLTP office. Upon receipt of the form and the new lawyer's completion fee, the New Lawyer and the Mentor will each receive 12 CLE credit hours.

How does completion of the NLTP get certified where there is more than one mentor involved in a particular mentoring relationship?

Where mentors are sharing responsibility for mentoring a new lawyer, each mentor must certify completion of the NLTP. Please contact the NLTP Administrator for further instructions.

What happens if the new lawyer does not complete the mentoring plan in the required time period?

Failure to complete the mentoring plan shall be reported to the NLTP office. The NLTP office will work with the new lawyer to assess options for completing the plan and whether license suspension is at risk. The program will have discretion in allowing extensions for NLTP completion.

LAW SCHOOL CREDITS

Can I get credit for activities accomplished during law school?

Yes. New lawyers are encouraged to take advantage of existing law school programs to fulfill assignments. Listed below are alternative opportunities available to the new lawyer which, if accomplished during law school, may fulfill some of the activities required in Section 3 of the mentoring plan as a new lawyer:

- A. Law school externships for credit under the supervision of an attorney/judge;
- B. Law school clinical program courses under the supervision of an attorney/judge or law professor;
- C. Law school simulated skills courses under the supervision of an attorney/judge or law professor; and
- D. Law school pro bono (or low bono) program participation under the supervision of an attorney.

If the new lawyer participates in any of the above and fulfills an assignment while in law school, the new lawyer may receive credit for that activity, subject to the restrictions noted in Section 3. The new lawyer should discuss the experiences with the mentor by summarizing the assignment completed and describing what the new lawyer learned from the experience. The mentor will have discretion in deciding whether the experience counts toward the requirements and whether he or she believes that the new lawyer substantially complied with those requirements.

Important Note: Even if the new lawyer uses law school experiences to fulfill requirements in the mentoring plan, the new lawyer must still participate in the NLTP for the full twelve-month term.

Are there any requirements that the new lawyer participate in any hands-on experience?

Yes. Some hands-on activities, that will teach the new lawyer necessary practical skills, will be required to complete Required Section 3. See Required Section 3 of the NLTP Mentoring Plan. The new lawyer may obtain that experience through pro bono (or low bono) activities, legal clinics, or similar programs. Talk with your mentee about possibilities of incorporating pro bono work into their plan. For more information on how to take pro bono cases contact probono@utahbar.org. Additionally, more resources are available on the NLTP website.

CHANGING MENTORS

What happens if the new lawyer needs to change to a different mentor?

In the unlikely event that a new lawyer needs to change to a different mentor, the new lawyer shall submit a change request via the web platform as soon as practicable. If the new lawyer is unable to make the request, the mentor shall notify the administrator. If approved, the NLTP Administrator will make the change through the NLTP platform.

What happens if the mentor becomes unavailable to serve?

If the mentor becomes unavailable to serve, the mentor shall inform the NLTP Office as soon as practicable. If the mentor is unable to notify the Office of the situation, the new lawyer shall notify the Office.

Completing the full year of mentoring with the original mentor is strongly preferred. The same rule of reason discussed above will be applied if a mentor becomes unavailable.

The NLTP has the ultimate authority and responsibility for policies and procedures for situations where a mentorship ends prematurely.

What if problems arise in the mentoring relationship?

If problems arise within the context of an inside mentoring relationship, resolution of the issues is a matter to be determined by the firm's or office's policy if at all possible. Issues resolved within the firm or office need not be reported to the program.

For concerns about program requirements or procedures in general, a mentor or new lawyer should contact the NLTP Coordinator.

Managing the Mentoring Relationship

At the beginning of the 12-month mentoring period who should initiate contact?

It is the new lawyer's responsibility to contact the mentor and schedule the first meeting. This first meeting should take place within the first month of the mentoring term.

Are communications between the mentor and the new lawyer confidential?

The NLTP anticipates that all communication designated by the new lawyer as confidential shall be deemed confidential by the mentor.

The Utah Supreme Court has developed a specific rule addressing conflicts and confidentiality in outside mentoring. See Rule 14-808(h), *infra*.

How is the mentoring plan monitored?

The mentor and the new lawyer are both responsible for completing the plan and evaluating the mentoring relationship. The mentor has sole responsibility for certifying whether the new lawyer has satisfactorily completed the program. The mentoring plan acknowledgment, progress reports, and completion certification will all be tracked on the NLTP web platform.

Can a new lawyer have more than one mentor to meet the requirements of the NLTP?

Ideally, a new lawyer will work with one mentor in order to develop a strong mentoring relationship. Occasionally, a new lawyer will be interested in an area of law that his or her mentor is not familiar with. In that case, the new lawyer will also be mentored by another lawyer in order to cover two areas of

law. Each mentor must be approved by the Utah State Bar Committee on New Lawyer Training. The new lawyer must submit the names of both mentors to the NLTP so that CLE credits can be allocated upon completion of the NLTP.

RESPONSIBILITIES: WHO DOES WHAT?

What are the new lawyer's responsibilities?

The new lawyer's responsibilities include satisfactorily completing the NLTP by:

1. devoting the time required for this mandatory program;
2. making themselves available to the mentor's guidance;
3. devising jointly with the mentor a mentoring plan; and
4. satisfactorily completing the mentoring plan.

What are the mentor's primary responsibilities?

1. Devote the time required to be an effective mentor;
2. Guide and teach the new lawyer practical skills, seasoned judgment, and sensitivity to ethical and professionalism values;
3. Devise jointly with the new lawyer a mentoring plan;
4. Monitor the new lawyer's plan progress; and
5. At the end of the 12-month mentoring term, certify that the new lawyer satisfactorily completed the mentoring plan and met with the mentor at least 10 times.

NLTP SUPREME COURT RULE 14-808

Rule 14-808. New lawyer training program.

(a) Applicability. All new lawyers admitted to practice law in Utah on active status must timely complete the requirements of the Bar's NLTP unless otherwise specified in this rule.

(a)(1) It is the new lawyer's responsibility to ensure that all aspects of the NLTP requirements are met within the required 12-month period in order to renew licensure. This includes but is not limited to filing a Mentoring Completion Certification executed by the assigned mentor attesting to successful completion of the NLTP.

(a)(2) The NLTP is intended to fulfill the requirements of new lawyer MCLE within the first year of the lawyer's two-year compliance period. The remaining 12 hours required in the two-year compliance cycle may be fulfilled at any time by attending other accredited CLE in accordance with the MCLE rules.

(b) Appointment of qualified mentors. The Bar will appoint qualifying mentors in accordance with the NLTP guidelines.

(c) Deferrals.

(c)(1) Those newly admitted lawyers serving judicial law clerkships may apply for temporary deferral at the Bar's NLTP office until completion of the clerkship. Upon completion of the clerkship, the lawyer must enroll and complete the NLTP's requirements in a 12-month period.

(c)(2) Those newly admitted lawyers who are otherwise not engaged in the practice of law as defined by Supreme Court rules or who are unemployed may petition the NLTP offices for temporary deferral of these requirements.

(d) Exemptions. Those lawyers exempt from completing the NLTP are limited to:

(d)(1) Newly admitted lawyers on active status who do not reside in Utah. Such lawyers are required to fulfill MCLE requirements in their state of residency under the Supreme Court's approved MCLE rules.

(d)(2) Newly admitted Utah lawyers who have been admitted on active status who have

practiced law elsewhere for two years or more.

(e) Cost. There is a fee associated with enrollment in the NLTP of \$300. One half of the amount is due at time of enrollment after admission and the remainder at time of completion of the program.

(f) Administrative suspension and non-renewal of license for non-compliance. Unless otherwise approved by the NLTP office for good cause, failure to timely complete the program will result in administrative suspension of the lawyer's license for non-compliance with this rule.

(g) NLTP curriculum and other information. The Bar has developed a proposed NLTP Manual which delineates the requirements that must be completed during the 12-month period. The Manual also includes a Model Mentoring Plan, a timeline, necessary forms and suggestions for developing effective mentoring relationships. The proposed NLTP Manual may be found by contacting the Bar or on the Bar's website.

(h) Conflicts and confidentiality in outside mentoring.

(h)(1) The outside mentor may provide or the new lawyer may seek short-term limited guidance or counsel, within the mentoring relationship, without expectation by either lawyer or the new lawyer's client(s) that a lawyer-client relationship has been formed or that representation is being provided in the matter by the mentoring attorney.

(h)(2) Where practical the new lawyer and the mentor shall discuss new lawyer client specific issues in hypothetical terms. If hypothetical terms are not practical under the circumstances as determined by the lawyers, a lawyer providing or seeking short-term limited guidance or counsel within the mentoring relationship is not subject to the Utah Rules of Professional Conduct regarding Confidentiality of Information because the disclosure is impliedly authorized under the

circumstance and is necessary to carry out the purposes of the NLTP.

(h)(3) To facilitate the goals and purposes of the NLTP, the mentoring lawyer is not required to run a conflict check when guidance or counsel is being provided on a short-term limited basis to a new lawyer regarding a new lawyer's client. In this respect, the mentoring lawyer's guidance or counsel, provided on a short-term limited basis to a new lawyer regarding a new lawyer's client, is not subject to Utah Rules of Professional Conduct regarding Conflict of Interest: Current Clients; Conflict of Interest: Current Clients: Specific Rules; Duties to Former Clients; Imputation of Conflicts of Interest: General Rule; and Special Conflicts of Interest for Former and Current Government Employees. However, the mentor may exercise his or her judgment as to whether a conflict check is advisable.

(h)(4) Subsections (h)(1)-(3) do not apply to lawyers who are outside mentors providing, or new lawyers seeking, counsel or guidance on an on-going or regular basis relating to the needs of or litigation regarding a specific client, within the context of the mentoring relationship. If the lawyers are engaged in on-going or regular guidance or counsel related to a specific client or clients, then the mentoring lawyer must comply with the relevant Utah Rules of Professional Conduct, which may require the lawyers to obtain informed consent from the client and/or to formally enter into a lawyer-client relationship through the execution of an appropriate engagement letter and fee agreement.

Guidance on Rule 14-808(h):

Pursuant to Utah Supreme Court Rule of Professional Practice 14-808 (New Lawyer Training Program), a mentor may provide short-term, limited guidance or counsel, within the mentoring relationship, without

expectation by either lawyer or the new lawyer's client that a lawyer-client relationship has been formed. Accordingly, the new lawyer is not required to run a conflict check and the Utah Rules of Professional Conduct regarding conflicts or confidentiality of information will not apply but only when guidance or counsel is being provided on a short-term limited basis to a new lawyer regarding a new lawyer's client. The mentor may exercise his or her judgment as to whether a conflict check is advisable. If the mentor and the new lawyer are engaged in on-going or regular guidance/counsel related to a specific client or clients, the mentor must comply with the relevant Utah Rules of Professional Conduct, which may require obtaining an informed consent/waiver from the client and/or to formally enter into a lawyer-client relationship through the execution of an appropriate engagement letter and fee agreement.

**NEW LAWYER TRAINING PROGRAM:
POLICIES AND PROCEDURES**

For the complete NLTP Policies and Procedures, please contact the NLTP office or you can find them [here](#).

PRACTICAL MENTORING

MENTOR READINESS

Rate yourself on the following:

- Do I see the potential in others?
- Am I a networked and resourceful guide for others?
- Am I patient and tolerant?
- Do I willingly give encouragement?
- Do I see the big picture?
- Am I willing to listen and give feedback?
- Are you willing to learn from your mentee?

MENTEE READINESS

Rate yourself on the following:

- Am I goal-oriented?
- Am I willing to seek out challenges?
- Can I take initiative?
- Am I willing to learn and take feedback?
- Can I take responsibility for my career and my actions?
- Can I avoid being overly dependent on my mentor?
- Are you willing to teach your mentor?

MENTORING SCENARIOS

You just learned from a colleague that the new lawyer you are mentoring has been uncivil and unprofessional in her communications toward opposing counsel. What do you do?

You agreed to mentor a new lawyer as part of the NLTP. That new lawyer graduated from law school six months ago and has no idea what he wants to do in his career. He is currently taking cases from family and friends to make money. How do you approach your first meeting with him? (Alternatively, as the new lawyer, how would you approach this?)

You work in a mid-sized law firm. Recently, your firm has hired three new associates with less than a year of practice. They are working with other attorneys in the Bar's required mentoring program. How can you support the mentoring of these young lawyers?

Feedback:

Safe – create trust in the relationship

Positive – be positive in addition to pointing out weaknesses

Specific – be specific about what the new lawyer can change and what you observed

Timely – give feedback at an appropriate time, but as close as possible to the time of observation.

Tough – There is a difference between being tough and being mean. Help the new lawyer understand why their action or way of handling a situation was wrong without demeaning them.

Follow-up – check back to see if further work should be done.

Effective mentoring examples given by new lawyers about their mentors

- Teach them how to respond to opposing counsel with professionalism and civility, even when opposing counsel is not acting in the same way.
- Arrange for the new lawyer to meet with judges or other attorneys whom you think would be good for the new lawyer to know.
- Focus on practical applications and reoccurring issues when working through the mentoring plan.
- Help the new lawyer develop habits of checking the rules.
- Help them develop conflict checking habits
- Help them understand what to do when an ethical issue arises – where to go, who to talk to, etc.
- Highlight strengths and kindly point out weaknesses
- If you are in the position to do so, give the new lawyer opportunities to learn new skills and take on challenging assignments.
- Refer them to other attorneys that would know the answers to questions you don't know the answer to.
- Familiarize yourself with the requirements of the program and the activities that are suggested in the plan. If a learning opportunity arises that you and the new lawyer did not anticipate, take advantage of it.
- Give feedback if you have the chance to observe the new lawyer in a legal setting or if you have the chance to look through the new lawyer's work.
- Use your own stories to share insight on certain issues and to provide the new lawyer with real life examples of how the legal profession operates.
- Find opportunities for the new lawyer to understand how to interact with firm staff, court staff, and other non-legal personnel.
- If you have a new lawyer that already has extensive court experience, delve deeper into other issues – generating business, client relations, billing, transactional work. Conversely, for new lawyers with ample transactional experience, encourage them to take on pro bono cases that would get them into court, help them understand how litigation works. We want new lawyers, regardless of their current work situation and future career aspirations, to have some experience with all aspects of the law.
- Help the new lawyer take ownership of their place in the Utah Bar – encourage them, guide them, instruct them, correct them.
- For new lawyers who are underemployed or who are not working in the legal field but are still in the program: develop case studies, modify cases that you are working on, read articles about pertinent subjects, talk hypothetically, encourage them to take pro bono cases.

Feedback from Mentors:

Q: What do you see is the role of a mentor?

- Help attorneys understand the law and procedures [needed] to provide the best services for the client and to appreciate the opportunity to be an attorney.
- To help the new lawyer start thinking and acting like a practicing lawyer rather than a law student.
- Orienting the mentee into the reality of the practice of law including ethics and unwritten rules and protocols.
- My role is to provide practical and real-life insight. These students are well-educated coming out of law school, but lack practical and other knowledge that comes from experience. They also need a sounding board that is not their supervising or managing attorney.
- I do not see my role as teaching legal research or other legal skills that should have been acquired in law school.
- Being a role model of a professional.
- Giving new lawyers a frame of reference for all the new things they are experiencing. One of the hardest things to judge is what is normal and what is not. A mentor gives a new lawyer perspective on the rules of conduct, professionalism and sometimes, if there is a good match, the substance of the law.

Q. What benefits have you received from mentoring?

- Getting to know a promising young lawyer. Reminding myself of ethical and professional rules that are important.
- I am more aware of my need to better communicate, listen, follow-up with and educate those I am mentoring.
- I've learned I really do know something.
- Involvement in our profession.
- Friendships, a renewed interest in the practice of law, the benefit of being engaged in solutions rather than on the sidelines, studying the Rules of Professional Conduct more often, reading the Preamble, walking the walk instead of talking the talk, helping the Court, helping the Bar, helping a young person find their way – the satisfaction of doing something good.
- I have to be sharp to answer good questions and provide useful information. I have to come to understand better the issues facing young lawyers trying to find good legal work in a tough market.

Q: What do you see as major challenges for mentors?

- Time
- Resourcing law topics with which I don't have knowledge.
- Admitting our many mistakes to be used as examples.
- The breadth of the program requirements.

- A new lawyer that does not take initiative.
- Making the sessions meaningful and engaging.
- New lawyer becoming too dependent on mentor.

Feedback from New Lawyers:

Q: What do you see is the role of the mentor?

- A mentor is supposed to be able to help you transition into a practicing attorney after law school.
- To teach, to answer questions, to listen, and to challenge the mentee. Be there to answer questions (sometimes to answer the question you should have asked rather than the one you actually did ask). Be there as a sounding board and to provide ideas and friendship.
- I think a mentor should be there to guide and assist the attorney, but not to substitute his knowledge for the opportunity to learn firsthand. Mentors are most effective when they are genuinely available to discuss questions and concerns, rather than simply meeting to tick-off boxes through discussions about specific items or assignments.

- It should be about cultivating relationships with professionals in an effort to learn more about the profession as well as what it takes to be successful.
- Answer questions

Q: What has been the greatest challenge as a new lawyer?

- Figuring out what the heck I'm doing
- Getting new clients/difficult clients
- Being mistaken by other court officer for the defendant (criminal), interpreter or paralegal.
- Everything!
- Figuring out what I should be doing now to ensure a successful career in the long run and finding time to actually do those things.
- Gaining confidence to practice.
- Endless fees and dues I am required to pay.
- Managing work load and expectations with life.

Q: What changes could be made to the NLTP?

- 11% of respondents felt that the NLTP was a checklist of unnecessary activities.

CHECKLIST – STEPS TO COMPLETION

Timelines for specific mentoring terms can be found [here](#):

COMPLETE		NEW LAWYER	MENTOR
	Contact and Select Mentor	✓	
	Pay the \$150.00 Enrollment Fee	✓	
	Submit NLTP Enrollment Form	✓	
	Attend NLTP Orientation – in person or video	✓	
	Attend Mentor Training, if required		✓
	Have first meeting with mentor – create mentoring plan	✓	✓
	Submit Plan Acknowledgment and Goals on web platform	✓	
	Complete TWO Status Reports	✓	✓
	Attend New Lawyer Ethics Course – Required	✓	
	Complete 6 (six) required and 4 (four) elective sections during the mentoring term	✓	✓
	Submit Completion Certification		✓
	Submit \$150.00 Completion Fee	✓	

INITIAL MEETING GUIDE

WHAT	MENTOR	NEW LAWYER
Come prepared.	Learn what you can about your new lawyer prior to your initial meeting.	Learn what you can about your mentor prior to your initial meeting.
Mentor's career history.	Give a brief career history including a description of your mentors and their effect on your career. If you lacked mentors, describe how it impacted your career. Describe why you practice in the areas you do and what path you took from law school to your current position. What would you have done differently? What is the best career choice you have made so far?	Listen. Ask for advice about how to reach your career goals.
Discuss new lawyer's goals.	Discuss new lawyer's career goals and interests. Listen. Ask questions.	Explain your career goals, including practice areas that interest you.
Review Mentoring Term deadlines and MCLE compliance requirements.	It is the new lawyer's responsibility to meet all of the NLTP deadlines and submit the required paperwork. It will help the new lawyer if you are aware of the NLTP deadlines and which documents you must sign for the new lawyer to meet his or her deadlines. Also, explain the need to meet MCLE requirements before the MCLE compliance deadline and the consequences of failing to meet compliance requirements.	Acknowledge your understanding of the mentoring term deadlines and MCLE compliance requirements.
Develop a Mentoring Plan. There is a Model Mentoring Plan on the bar website.	Review the model mentoring plan. The plan has both required and elective elements. Work with the new lawyer to select elective activities that will provide training and help her or him reach desired career goals.	Review the model plan in advance. Be ready to discuss and develop an individualized plan.
Establish a regular, monthly meeting time.	Schedule your next nine meetings. You and the new lawyer are required to meet for two hours ten times throughout the twelve-month term. If you wait to set up meetings on a month-to-month basis, scheduling will become difficult for both of you and stressful for the new lawyer who must meet NLTP deadlines.	Agree to organize your time so as to make efficient use of the mentoring meetings. Be considerate of mentor's work schedule.
Establish ground rules for the mentoring relationship.	Establish ground rules for the mentoring relationship. For instance, do you prefer to be contacted by email or phone? Should the new lawyer contact you or your assistant to set up a meeting? Should the new lawyer knock if your door is closed or come back another time?	Make sure you understand the ground rules for contacting and meeting with your mentor.
Agree to be candid about any problems.	Explain that you will inform new lawyer if a problem arises in the mentoring relationship or if a desired result is not being obtained.	Explain that you will inform mentor if a problem arises in the mentoring relationship or if a desired result is not being obtained.

Introduction to the Mentoring Plan

The new lawyer's mentoring plan is the focus of the New Lawyer Training Program. To assist in the development of the new lawyer's plan, the Supreme Court Committee on New Lawyer Training developed a Model Mentoring Plan which includes required and optional sections and activities. It consists of core concepts, lawyering skills, activities and experiences used as learning activities and topics for discussion between the new lawyer and mentor. The activities and experiences are an introduction to the topics with which lawyers need to be familiar for the successful and professional practice of law.

The Model Mentoring Plan does not fit all new lawyers' practice areas, professional interests or goals. New lawyers and their mentors should work together to create a comprehensive plan reflecting the new lawyer's professional goals and interests while exposing her or him to both the practice and business of law. A thorough, well thought-out plan will help make the NLTP term meaningful and productive for both the new lawyer and mentor.

The Mentoring Plan should be developed by the mentor and new lawyer during their first meeting

and the Mentoring Plan Acknowledgment must be submitted to the NLTP Coordinator through the NLTP web platform **within 38 days** of the start of the mentoring term. Consult the NLTP Initial Meeting Guide to prepare for the first meeting and to facilitate discussion about the Mentoring Plan. The Initial Meeting Guide is available on the Bar's website [here](#).

The Mentoring Plan Acknowledgment is a summary of the experiences which the new lawyer and mentor have chosen to complete together by the end of the mentoring term. In addition to the activities provided in the Mentoring Plan, new lawyers are encouraged to discuss with their mentors other career issues that arise in their early practice experience.

If the mentor does not practice in all the areas selected and agreed upon by the mentor and the new lawyer, the mentor may choose to call on another experienced lawyer who practices in the specific area to assist in mentoring the new lawyer in that area. In such a situation, the program allows for shared credit between mentors.

INSTRUCTIONS FOR CREATING A MENTORING PLAN

The following provides general instructions for creating a mentoring plan. **Please read these instructions carefully.**

1. Print and bring this Model Mentoring Plan to the first meeting.
2. Mentor and new lawyer should discuss new lawyer's professional goals, interests and practice areas to develop and prioritize activities in the mentoring plan.
3. Review Required Sections 1 through 6 contained in the Model Mentoring Plan. All six sections must be included in the Mentoring Plan. In addition to the required activities listed within each section, the new lawyer and mentor may develop activities related to these subjects. The optional activities listed in this model plan may also be used. NOTE: Activities need not be completed in any particular order.
4. In addition to required Sections 1 through 6, New Lawyers must select at least four (4) electives to include in his/her Mentoring Plan. These electives are included under the heading **“ELECTIVE ACTIVITIES AND EXPERIENCES.”** The electives cover 16 different areas of law. New lawyers and mentors may create one or more electives covering other subjects of interest deemed appropriate given the new lawyer's particular area of practice. Examples of additional electives covering other areas of practice not listed in the Model Mentoring Plan can be found online [here](#).
5. Indicate which activities will be completed by the new lawyer during his or her mentoring term by checking the corresponding box next to each activity description in each Required Section 1 through 6 and relevant Electives.
6. **Summarize the mentoring plan and establish three goals you would like to achieve during your term on the Mentoring Plan Acknowledgment and Goals through the NLTP Web Platform.**
7. Submit the online Mentoring Plan Acknowledgment within 38 days of the start of the mentoring term. Submission of the Plan Acknowledgment is only available through the NLTP web platform.

If you have any questions regarding the creation of your mentoring plan, contact the NLTP Administrator at mentoring@utahbar.org or by calling (801)297-7026.

Utah State Bar New Lawyer Training Program-- Mentoring Plan

Participate in— Hands-on experiences with the activities you choose. While the Plan is intended to be flexible regarding practice areas, the emphasis should be on obtaining practical experience.

Observe—If you are unable to participate in an activity, then observe your mentor or another attorney. Observing court proceedings can teach you a lot about the practice of law.

Discuss—In some cases, you can discuss principles and practices. Use examples as much as possible in these discussions.

If you are unable to participate in or observe activities involving forms, pleadings, or other documents, use mock examples. Client interactions and other activities can be hypothetically created if needed.

Pursuant to Utah Supreme Court Rule of Professional Practice 14-808 (New Lawyer Training Program), the mentor may provide short-term, limited guidance or counsel, within the mentoring relationship, without expectation by either lawyer or the new lawyer's client that a lawyer-client relationship has been formed. Accordingly, the new lawyer is not required to run a conflict check and the Utah Rules of Professional Conduct regarding conflicts or confidentiality of information will not apply when guidance or counsel is being provided on a short-term limited basis to a new lawyer regarding a new lawyer's client. The mentor may exercise his or her judgment as to whether a conflict check is advisable. If the mentor and the new lawyer are engaged in on-going or regular guidance/counsel related to a specific client or clients, the mentor must comply with the relevant Utah Rules of Professional Conduct, which may require obtaining an informed consent/waiver from the client and/or to formally enter into a lawyer-client relationship through the execution of an appropriate engagement letter and fee agreement. The new lawyer and the mentor should refer to Rule 14-808 with any questions.

Focus on professionalism and civility principles in all aspects of the plan. If the new lawyer has experience in areas of the plan already, develop a deeper understanding of potential ethical or professionalism issues that may arise. (See Mentoring Guide on Professionalism)

REQUIRED EXPERIENCES

Mentoring Relationship – Required Initial Meeting

- During the first month of the mentoring term, the new lawyer should contact the mentor and arrange to meet at the mentor's office to get acquainted and develop a mentoring plan.
- Reach an understanding on how matters designated as confidential by the new lawyer will be handled.

[Initial Meeting Guide](#)

Required Section 1: Introduction to the Legal Community.

Required Experiences

- Invite the new lawyer to attend a meeting of the local bar association (CLE, event, pro bono, social) and discuss advantages of involvement with local, state and/or national bar or professional associations. Discuss a lawyer's obligation to provide pro bono service. Encourage the new lawyer to take a pro bono case as a way to provide service and gain legal experience. Encourage the new lawyer to fill out a pro bono volunteer sign-up form.
- Acquaint the new lawyer with And Justice For All, including Legal Aid, Utah Legal Services, Disability Law Center and other free clinics. The new lawyer and mentee are strongly encouraged to volunteer together at one of the free clinics such as Tuesday Night Bar, Family Law Clinic or Debtor's Clinic.

- If applicable, discuss internal policy on performing public service, low and pro bono projects, and hours allowed for these programs.
- Discuss and explain CLE requirements and ways to fulfill such requirements, including Bar CLE programs.

Optional Experiences

- Introduce the new lawyer to other lawyers in the community through attendance at local bar association meetings or other legal community meetings.
- Review and discuss Bar sections and committees and the value of getting involved in Bar activities and service, including the Young Lawyers Division.
- Escort the new lawyer on a tour of the local courthouse(s) and, to the extent practicable, introduce him or her to members of the judiciary, court personnel, and clerks of court.
- Provide four (4) forms to the new lawyer based on the new lawyer’s need or request or provide the most-used sample pleadings utilized by the mentor . (Identifying and confidential information should be redacted or otherwise removed from the documents.)

Month/Project/Case/Ongoing_____

Required Section 2: Rules of Professional Conduct and Standards of Professionalism and Civility.

Required Experiences

- Attend the required CLE, New Lawyer Ethics Program, offered either in the fall or spring. Review the CLE calendar on the Utah State Bar website for seminar dates and to register.**
- Review and discuss the Rules of Professional Conduct. Review and discuss the following Rules.
 - o 1.7-8. Conflict of interest: current clients;
 - o 3.3. Candor toward the tribunal;
 - o 4.2 Communication with persons represented by counsel; or
 - o 4.3 Dealing with unrepresented persons.
 - o 6.1 Voluntary pro bono legal system
- Review and discuss the Utah Standards of Professionalism and Civility. Discuss the Preamble and all twenty standards. Discuss any “unwritten” customary rules of civility or etiquette among lawyers and judges in the community.
- Discuss ethical issues that arise with some regularity in the practice setting. Discuss ways to resolve the issues, referring to experience, as well as the Rules of Professional Conduct. Include in the discussion the importance and use of an in practice or firm conflict resolution committee. Review and discuss the importance of and methods used to screen for potential conflicts. Discuss the differences between issue conflicts and client conflicts.
- Discuss the process and importance of responding to Bar complaints and requests for information from the Office of Professional Conduct.

Month/Project/Case/Ongoing_____

Required Section 3: Litigation and Transaction Handling Experiences. (Select at least 10)

The new lawyer is required to accomplish at least ten (10) of the following experiences in Litigation and Transaction Handling. At least four (4) of the ten (10) experiences must satisfy the Required Practice Experience section detailed below. The experiences in this section are intended to give all new lawyers an opportunity to receive cross-training and exposure to areas of practice beyond their usual work.

Up to four (4) of the selected experiences may be accomplished during law school in a credit-earning externship; a law school clinical program; a simulated skills course; a mock trial course or competition; or a supervised Pro Bono case. See pages 19-20 of the Guidelines and FAQs in the New Lawyer Training Program Manual for information about receiving credit for experiences accomplished during law school.

Required Practical Experience—Choose Four (4)

During the year, the new lawyer must have at least four (4) practical experiences that are observed/checked by the mentor or another member of the Utah State Bar. The new lawyer should be in an active, not observational, role for these specific experiences. The mentor should provide feedback based on the new lawyer's performance. The new lawyer should choose four (4) separate practical experiences from the following list:

- Participate in a clinic held by the Utah State Bar, such as the Family Law Clinic, Expungement Clinic, Tuesday/Thursday Night Bar, Wills for Heroes, Pro Se Calendar, etc.
- Take on a pro bono case with the mentor as co-counsel or in an advisory role through the Utah State Bar. If the mentor is not counsel of record with a proper engagement letter and fee agreement in place, then the new lawyer should either (1) obtain informed consent/waiver from the client that allows the mentor to be involved in the case, or (2) ensure that all information learned during the representation remains confidential and privileged. If the latter, the new lawyer should speak in generalities or hypothetical terms, or redact or otherwise remove identifying, confidential information. Please refer to Utah Rule 14-808.
- Have the mentor review and provide feedback on three (3) written products drafted by the new lawyer, such as motions, proposed orders, letters to opposing counsel, in-depth email correspondence to opposing counsel, in-depth letters to clients, etc. If possible, the new lawyer should redact or otherwise remove identifying, confidential information. Please refer to Utah Rule 14-808.
- With the client's permission and signed waiver, have the mentor sit in on an in-office meeting that is run by the new lawyer.
- With the client's permission and signed waiver, have the mentor sit in on a mediation that is run by the new lawyer.
- With the client's permission and signed waiver, have the mentor sit in on a hearing that is run by the new lawyer.
- Participate in a CLE that provides practical experience, such as Young Lawyer Division's Litigation 101 series or the Litigation Section's Trial Skills Academy.

The new lawyer and mentor can create other practical experiences for the new lawyer that satisfies this requirement, so long as the activity is presented to the New Lawyer Training Program Director and approved; the activity is run by the new lawyer; and the mentor is present and able to provide feedback afterwards.

The new lawyer can turn one of the experiences listed below (“Additional Experience” Section) into a practical experience that would satisfy this “Required Practical Experience” Section so long as the activity is run by the new lawyer and the mentor is present and able to provide feedback afterwards.

Additional Experience—Choose Six (6)

- Participate in drafting a fee agreement for a client.
- Participate in a deposition of a witness or adverse party in a civil action.
- Participate in a trial in a civil or criminal case in either a state or federal court. (Cross-reference with Elective Section A)
- Participate in an evidentiary hearing in a state or federal court.
- Observe or participate in a mediation or arbitration.
- Observe or participate in a negotiation and explain relevant background context.
- Participate in the interviewing of a client.
- Participate in the counseling of a client.
- Prepare a complaint and a summons. (Cross-reference with Elective Section E)
- Participate in trial preparation and observe or participate in a trial.
- Participate in or observe an appellate argument in the Utah Supreme Court, Utah Court of Appeals or in a Federal Appellate Court. (Cross-reference with Elective Section A)
- Participate in plea negotiations or reviewing a plea agreement.
- Participate in drafting and reviewing wills and revocable living trusts.
- Participate in drafting and reviewing initial probate documents.
- Participate in forming business entities by drafting and reviewing incorporation documents and business agreements.
- Participate in preparing settlement documents, including a discussion of any tax implications in a settlement including a monetary award.
- Participate in an administrative hearing.
- Participate in drafting, amending, or reviewing a contract.
- Participate in drafting a pleading or motion for an administrative body or a state or federal court.

- Participate in preparing a client’s tax return.

Month/Project/Case/Ongoing _____

Required Section 4: Intro to Law Office Management

Required Experiences

- Tour the mentor’s office to demonstrate and explain how the following items of law practice management are used and handled in the mentor’s office, if applicable: (discuss these practices if a tour is not feasible)
 - o Time Records. Discuss how to write a time entry that is meaningful to clients, billing partners and, if necessary, a court in a case involving fee awards. Explain realization.
 - o Discuss best practices and current practices regarding records of client-related expenses.
 - o Discuss the billing system.
 - o Review escrow and trust account rules for handling of client funds, including importance of clearing checks before funds are drawn and authority needed to pay fees from client funds in trust.
 - o Introduce the new lawyer to the filing system.
 - o Review and discuss malpractice insurance policy and review the insurance and disclosure forms required annually by the carrier.

- Introduce the new lawyer to the document retention plan.
- Introduce the calendar and “tickler” or reminder systems.
- Introduce the information technology systems.
- Introduce the library and research systems.
- Discuss practices to maintain client confidentiality.
- Discuss office conflict of interest procedures.

Optional Experiences

- Introduce other resources (publications, seminars, equipment, etc.) that a new lawyer might find particularly helpful in his or her work.
- Discuss the roles and responsibilities of paralegals, secretaries, and other office personnel, and how to establish good working relationships with others in the office who are support staff, colleagues, or senior partners.

Optional Focused Product - For solo practitioners, outside mentoring, or non-private practitioners

- Create a business plan
- Draft policies and procedures for a law office

Month/Project/Case/Ongoing _____

Required Section 5: Working With Clients (Required Where Applicable)

Required Experiences

- Engage in a training discussion about client interaction, including tips for gathering information about a legal matter and appraising the credibility and trust of a potential client.
- Train, through discussion and client interaction, how to screen for, recognize, and avoid conflicts of interest.
- Train on using retainer or engagement letters and discuss frequent issues that arise regarding the scope of representation.
- Discuss “DOs and DON”Ts” of maintaining good ongoing client relations, such as returning telephone calls and keeping clients informed about matters.
- Discuss terminating the lawyer-client relationship and necessary documentation.

Optional Experiences

- Train on how to decide whether to accept a proffered representation.
- Train on how to talk about and set the fee for legal services. Review and discuss retainer agreements.
- Discuss how to deal with a “difficult” client and how to decline representation of the unrealistic or “impossible” client.
- Participate in or observe at least one client interview or client counseling session.
- Review and understand contingency fee agreements and issues to be included.

Optional Focused Product

- Draft or evaluate a client intake form

Month/Project/Case/Ongoing _____

Required Section 6: Implicit Bias and Well-Being.

- Discuss the importance of family and life balance, including any billable hour requirements not previously discussed.
- Review and discuss the support and counseling available for the new lawyer and family through the Bar’s contract with a professional counseling service and the Lawyers Helping Lawyers Committee.

- Take two of the tests that Harvard has created to test for implicit bias. Discuss the results.
- Mentoring Guides
- Work/Life Design and Well-Being
 - Diversity and Inclusion

Month/Project/Case/Ongoing _____

END OF REQUIRED SECTIONS

ELECTIVE ACTIVITIES AND EXPERIENCES

*The mentor and the **new lawyer** should choose four of the Elective Sections identified in Sections A through Q. **Within each area, select as many activities as feasible.***

Under each area, you are encouraged to adjust the activities and experiences to your particular practice setting and individual needs.

*The mentor, or another experienced lawyer approved by the mentor, should monitor and facilitate the progress of the **new lawyer** in fulfilling practice experiences by discussing the context and assessing the activity selected.*

Elective Section A: Advocacy.

- Attend an appellate argument in the Utah Supreme Court, the Utah Court of Appeals, or a United States Circuit Court of Appeals;
- Attend or participate in a hearing on a motion; discuss.
- Attend or participate in an oral argument; discuss.
- Attend or participate in a trial, including voir dire if a jury trial; discuss.
- Discuss frequent issues that arise in litigation concerning specific Rules of Civil Procedure, and the local rules that apply in either state or federal court.
- Participate in 26(f) conference to discuss settlement, discovery plan and initial disclosures.
- Discuss the mechanics of trial, including where to stand, proper attire, when to stand, courtroom decorum, judges' bench books, etc.
- Participate in drafting discovery requests, including interrogatories, requests for admission and requests for production of documents.
- Participate in preparing for and observing (or taking or defending) depositions.

Month/Project/Case/Ongoing _____

Elective Section B: ADR.

- Review and discuss Utah statutes on mediation including requirement to screen for potential conflict of interest of mediator.
- Observe, participate in, or prepare for an actual or simulated mediation.
- Observe, participate in, or prepare for, an arbitration and review and discuss AAA rules.
- Discuss how to prepare a client for mediation or arbitration.

Month/Project/Case/Ongoing _____

Elective Section C: Negotiation.

- Discuss how to prepare for the negotiation of a legal matter (e.g., release of a personal injury claim, lease agreement, etc.).
- Discuss when and how negotiation should be initiated.
- Discuss when and how to involve the client in negotiation.
- Discuss ethical and professional obligations of negotiators.
- Discuss skills needed to be an effective negotiator and how to acquire them.

Month/Project/Case/Ongoing_____

Elective Section D: Client Interviewing and Counseling. (Cross-reference with Required Section 5)

- Discuss and review interview techniques (asking the right questions).
- Discuss and review counseling techniques (providing the hard advice).
- Simulate and discuss the counseling of a client (mentor and new lawyer should alternate being client and lawyer).
- Participate in interviewing a client.
- Participate in counseling a client.

Month/Project/Case/Ongoing_____

Elective Section E: Civil Procedure.

- Prepare complaint.
- Prepare summons.
- Cause summons to be served.
- Participate in preparing a Rule 12 motion to dismiss.
- Participate in preparing answer to complaint, counterclaim, cross-claim and third-party complaint.
- Participate in 26(f) conference to discuss settlement, discovery plan and initial disclosures.
- Participate in preparing initial disclosures as required by Rule 26.
- Participate in preparing for and observing, taking, or defending a deposition.
- Participate in drafting discovery requests, including interrogatories, requests for admission and requests for production of documents.
- Participate in identifying expert witnesses and producing expert witness reports.
- Participate in depositions including the deposition of expert witnesses.
- Participate in preparing motions and memoranda in support of summary judgment.
- Participate in preparing pretrial order and making pretrial disclosures of witnesses and exhibits.

Month/Project/Case/Ongoing_____

Elective Section F: Criminal Procedure.

- Participate in client or witness interview.
- Participate in charge negotiations with prosecutor's office.
- Participate in discovery demands on prosecutor, including request for exculpatory materials.
- Participate in engagement of private investigator to interview witnesses.
- Review information or indictment for constitutional and/or pleading defects.
- Research elements of crime charged or under investigation; discuss.
- Review and discuss pretrial diversion requirements.
- Review and discuss plea in abeyance statute in a particular case and study applicable statute.

- Review and discuss criteria for a one- or two-level reduction of offense in a particular case and study applicable statute.
- Participate in discussions with Pretrial Services (bail).
- Participate in editing Statement by Defendant in Advance of Plea.
- Observe and/or participate in trial.
- Observe and/or participate in entry of plea in court.
- Review and discuss Presentence Report; participate in filing objections.
- Research and participate in analysis of federal sentencing guidelines in particular federal case.

Month/Project/Case/Ongoing _____

Elective Section G: Estate Planning.

- Participate in drafting and reviewing at least six of the following:
 - o Wills.
 - o Revocable living trusts: tax planning.
 - o Revocable living trusts: non-tax planning.
 - o Revocable living trusts: generation skipping tax planning.
 - o Irrevocable trusts.
 - o Durable powers of attorney.
 - o Special powers of attorney for health care.
 - o Directives to physicians (living wills).
 - o Life insurance trusts.
 - o Transfer of ownership documents: quit-claim deeds.
 - o Transfer of ownership documents: assignments.
- Assist in gathering and organizing client information.
- Prepare diagrams of specific estate plans for clients.
- Prepare estate planning binders for clients.
- Prepare Crummey notices for life insurance trusts.

Month/Project/Case/Ongoing _____

Elective Section H: Probate.

- Prepare notice to creditors and arrange for publication.
- Prepare inventory of estate.

Month/Project/Case/Ongoing _____

Elective Section I: Family Law.

- Review and discuss the Rules of Civil Procedure specific to Family Law.
- Understand the role of a Domestic Relations Commissioner. Meet as many commissioners as possible.
- Review Rule 26.
- Create a child support worksheet.
- Observe hearing on motion for temporary orders.
- Observe or participate in custody evaluation settlement conference if permission is granted.
- Participate in a collaborative law meeting if permission is granted. (For a definition of “collaborative law,” see Utah Code of Judicial Administration.)
- Participate in a mediation if permission is granted.
- Observe or participate in a family law trial.

- Participate in preparing a premarital agreement or review and discuss statutory requirements, case law, and necessary terms of premarital agreements.
- Family Law

Month/Project/Case/Ongoing _____

Elective Section J: Juvenile Law.

- Attend or participate in a shelter hearing.
- Attend or participate in a disposition hearing.
- Discuss the standards for removal with a Department of Child and Family Services (DCFS) worker.
- Discuss the role of a juvenile Guardian ad Litem; introduce where possible.
- In a Juvenile delinquency case, observe, participate in, or discuss:
 - o A detention hearing
 - o The role of a probation officer in detention cases
 - o An arraignment
 - o A pre-trial
 - o A trial

Month/Project/Case/Ongoing _____

Elective Section K: Business Law.

- Participate in forming business entities by drafting and reviewing at least three of the following:
 - o Bylaws.
 - o Articles of incorporation.
 - o Articles of organization.
 - o Operating agreements.
 - o Partnership agreements.
 - o Corporate minutes and resolutions.
- Participate in drafting and reviewing at least three of the following:
 - o Shareholders' agreements.
 - o Buy-sell agreements.
 - o Stock purchase agreements.
 - o Asset purchase agreements.
 - o Noncompetition agreements.
 - o Security/collateral agreements.
 - o Promissory notes.
- Participate in the due diligence process for mergers and acquisitions.
- Prepare UCC filings.

Month/Project/Case/Ongoing _____

Elective Section L: Tax Law.

- Prepare and analyze tax calculations.
- Participate in preparing certain IRS tax forms, including the following:
 - o Form 2553 (S Corporation Election).
 - o Form 709 (Gift Tax Return).
 - o Form 706 (Estate Tax Return).

- Form 1041 (Income Tax for Trusts).

Month/Project/Case/Ongoing_____

Elective Section M: Real Estate Law.

- Search a title at Recorder's Office.
- Participate in drafting and reviewing at least four of the following:
 - Real estate purchase agreements.
 - Deeds of trust.
 - Mortgages.
 - Commercial leases.
 - Residential leases.
 - Notice of Default on the above.

Month/Project/Case/Ongoing_____

Elective Section N: Employment Law

- Review and discuss the UALD/EEOC administrative process. Review or participate in drafting a charge or the response to a charge.
- Prepare for and participate in the UALD/EEOC administrative process, including a resolutions conference or an appeal to the Labor Commission.
- Participate in drafting a separation or settlement agreement.
- Participate in consultation with management on HR issues.
- Prepare for and observe or participate in an unemployment benefits insurance appeal hearing.
- Review and discuss an ongoing employment law issue, such as a claim under Title VII, the Family Medical Leave Act, the Americans with Disabilities Act, or other substantive federal law or its state counterpart.

Month/Project/Case/Ongoing_____

Elective Section O: Patent Law

- Observe or participate in a client interview.
- Participate in patent search/evaluation.
- Participate in drafting and filing a patent application.
- Participate in filing an Information Disclosure Statement (IDS).
- Participate in drafting an Office Action response.
- Participate in a telephone conversation with an Examiner.
- Participate in preparing and drafting an appeal brief.
- Discuss and review techniques for successful patent prosecution.
- Participate in patent litigation.

Month/Project/Case/Ongoing_____

Elective Section P: Trademark Law

- Observe or participate in a client interview.
- Participate in trademark search/evaluation.
- Participate in drafting and filing a trademark application.
- Participate in drafting an Office Action response.

- Participate in preparing and drafting an appeal brief.
- Discuss and review techniques for successful trademark prosecution.
- Participate in trademark litigation.
- Participate in drafting and filing a copyright application.

Month/Project/Case/Ongoing _____

Other Possible Electives

Section Q (1-17) _____.

There are a number of other substantive areas of the law not included but for which you may prepare a plan and your own check-off sheet. Those areas include but are not limited to:

1. Administrative law
2. Securities law - [Sample Electives](#)
3. Bankruptcy law - [Sample Electives](#)
4. Environmental law and compliance
5. Antitrust law
6. Water law
7. Oil, gas, and mining law - [Sample Electives](#)
8. Public utilities law
9. Contract law - [Sample Electives](#)
10. Personal injury law, including products liability - [Sample Electives](#)
11. Insurance defense law, including coverage analysis
12. Merger and acquisition law - [Sample Electives](#)
13. Constitutional law
14. Immigration law - [Sample Electives](#)
15. Health care law
16. Ethical leadership in corporate practice (audit committees, Sarbanes Oxley, corporate monitors) - [Sample Electives](#)
17. Lobbying requirements, ethics and state legislative process.
18. Construction Law - [Sample Electives](#)
19. Criminal Defense - [Sample Electives](#)
20. Municipal Law - [Sample Electives](#) – Additional resources on file with NLTP

END OF ELECTIVE SECTIONS

Mentor Resources

The NLTP office has specific resources for **family law, trusts & estates, municipal law, and employment law** on file. Please contact the NLTP if you would like any of these resources.

In addition to the monthly **NLTP Newsletter**, the following are links to some of the resources available on the NLTP Webpage. They are intended to support you in your mentoring term, to understand various fields of law, how they intersect, how professionalism and civility shape the profession, and how to be an ethical practicing attorney.

- **NLTP Web Platform**

<https://nltp.xinspire.com/>

- **Mentoring Plan Resources – Articles, Discussion Guides, Newsletters, Videos**

<https://nltp.xinspire.com/resources/documents#>

- **NLTP Manual/Policies & Procedures**

If there are resources you would like to see or suggestions to improve the existing resources, please let me know.

Professional Identity/Professional Development/Professionalism

“The ...profession face[s] a future of continuing exponential growth of knowledge and rapidly changing markets where the lawyer who takes initiative with life-long, self-directed learning skills will be best able to secure meaningful employment and serve clients and others well.
This internalized proactive commitment to professional development toward excellence is one of the foundations for a lawyer’s professional formation or professionalism.”

–Neil Hamilton, “A Professional Formation/Professionalism Challenge: Many Students Need Help with Self-Directed Learning Concerning Their Professional Development Toward Excellence.” 27 Regent Univ. Law Rev. 225, 226

The NLTP has three main goals:

- To train new lawyers in professionalism, ethics, and civility.
- To assist new lawyers in their development of the practical skills and judgment necessary to effectively practice law.
- To impart to Utah attorneys the importance of organizational mentoring.

The creation of professional attorneys is at the crux of the NLTP. The activities, meetings, events, and experiences during the mentoring program should center around that development. Beyond the NLTP, all attorneys should focus on the creation of their professional identity, the development of that identity over the course of their career, and the inclusion of the highest degree of professionalism within that identity development.

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Self-Assessment:

- How well do you understand the Standards of Professionalism?
- What is one area that you can improve on in the development of your professional identity?
- What are your current resources and what skill do you want to pick up?
- What are your personal weaknesses? What character traits do you want to develop?
- What can you improve in your networking circle?

Work-Life Balance/Well-Being

“Here’s an obvious observation: your employer is never going to tell you it’s time for you to have a bit of downtime. Your to-do list will never magically be completely checked off so that you can have rest and relaxation. If you do not own and take control over your own time, your own schedule, your day will become more filled with other people’s priorities.”

-Jeena Cho, “Why Work/Life Balance is So Hard to Find.” Abovethelaw.com (Sep. 12, 2016 at 7:35 PM).

Taking care of yourself first means you can better take care of your clients and focus on the development and maintenance of your professional identity.

Developing a sense of your unique strengths and aspirations will allow you to better craft career goals and habits in line with what inherently drives you. Developing resiliency, focusing on creating balance, taking time for well-being – these are all things that new lawyers, and veteran lawyers, should focus on.

Mentoring relationships, because they provide a space to talk about aspects of the practice of law that are beyond writing briefs and learning rules, can help both new lawyers and their mentors understand themselves better. As one new lawyer put it, the mentor helps “develop my own strengths, beliefs, and personal attributes.” (2015 Outstanding Mentor Award Nomination Letter – on file in the NLTP office.)

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Self-Assessment:

Take the VIA Survey – www.viacharacter.org

What are your strengths?

How do your strengths play into your career goals?

What can you change about your environment OR your mindset to have better balance?

How can you improve your mental health? Physical health? Emotional health?

Leadership

“...effective leadership boils down to five key ‘practices.’ The labels that follow are taken directly from Kouzes and Posner’s book, *The Leadership Challenge*.

- Model the way...**
- Inspire a shared vision...**
- Challenge the process...**
- Enable others to act...**
- Encourage the heart.”**

-Dr. Larry Richard, “The Mind of the Lawyer Leader.” Law Practice Magazine, Sept./Oct. 2015 at:
http://www.americanbar.org/publications/law_practice_magazine/2015/september-october/lawyer-leader.html

Legacy planning or transfer of institutional knowledge. These both refer to the same idea – making sure that those who come after have sufficient knowledge of what came before. It should be no surprise that the legal profession has changed and will continue to change. New lawyers are the rising leaders of the profession and need that institutional knowledge transferred to them. **There are few better ways to do that than through mentoring.**

At the same time, these new lawyers also need to feel like they have a place in the future of the profession. Encouragement, opportunities to act, being challenged all allow them to craft their own identity and stake a claim in the profession.

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Self-Assessment:

- Who do you view as an ideal leader?
- What leadership attributes do you want to develop?
- Do you view yourself as a leader? How? Where? When?
- Choose one or two of Kouze’s and Posner’s leadership practices to incorporate into your relationships.

Relationships

“...the legal profession is a service profession.”

-Frank H. Wu, “A Law School Dean Reflects on Law Firm Practice.” HuffingtonPost.com (Feb. 13, 2013 at 5:15 PM).

Our profession is a service profession. Service is about relationships. Relationships with our colleagues, with opposing counsel, with judges, with our clients, with the public, and with ourselves. Part of mentoring is to give a space where those relationships can develop and where networking opportunities can grow.

“At its core, mentoring is about relationships. Starting with the mentor/new lawyer relationship, the NLTP encourages new lawyers and their mentors to reach out to other attorneys to help in aspects of the program. But, beyond fulfilling a requirement, we want both the young lawyer and the mentor to continue to create those relationships that will keep the Utah legal community connected. Our profession is one of service. That means that our profession is one of relationships. Learning to communicate, to collaborate, and to be known is the business of a lawyer and a mentoring relationship, especially for one just entering the profession, can create the environment to learn how to build those professional relationships.”

-Emily A. Sorensen, “Why Mentoring?” Utah Bar Journal. Sept./Oct. 2016 40, 43.

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Self-Assessment:

Are you introverted (need to be alone to recharge) or extroverted (need people to recharge)? How does this affect the way you network professionally?

How can you widen your networking circle?

What do you value in your relationships and how can you cultivate that?

What do you see is the purpose of professional relationships?

The following pages contain general mentoring tips for the required sections of the mentoring plan.

REQUIRED SECTION RESOURCES

SECTION 1: INTRODUCTION TO THE LEGAL COMMUNITY

INTRODUCTION TO THE COMMUNITY AT LARGE (Optional Activity)

This resource is intended to facilitate a discussion between the mentor and new lawyer about civic club opportunities, as well as civic, charitable, and service work.

General Mentoring Tips:

- Discuss why it is important to participate in civic clubs or organizations and how to get involved in them.
- Discuss the types of civic, charitable or service activities the mentor engages in and why he or she does so. What tangible and intangible benefits does the mentor enjoy that offset the investment of time and resources?
- Discuss (without giving case specific information if an Outside Mentor) the clients and case referrals the mentor has received as a result of participation in civic and/or charitable organizations.
- Invite the new lawyer to attend a meeting of a civic, charitable or service organization in which the mentor is involved or invite the new lawyer to participate in a civic, charitable or service activity with the mentor.
- To the extent possible, introduce the new lawyer to those involved in an organization with which the new lawyer is interested in volunteering.
- Discuss whether dues and/or contributions to civic, charitable and service organizations are paid by the firm or paid by the individual lawyers in the firm. Discuss the background of the policy decision about the source of funds for dues or contributions.

SECTION 1: INTRODUCTION TO THE LEGAL COMMUNITY

Section 1(b): Introduction to the Mentor's Office

This resource is intended to facilitate a discussion between the mentor and new lawyer with regard to the introduction of the new lawyer to the members of the mentor's firm or office.

General Mentoring Tips—Inside Mentoring:

- Introduce the new lawyer to other lawyers and personnel in the firm/office. If the office/firm is large and it is not feasible to introduce the new lawyer to everyone, introduce the new lawyer to partners and supervising attorneys, as well as those associates and staff in the division(s) in which the new lawyer will work.
- Explain from whom the new lawyer should expect to get work. Do all assignments come through one person? Is the new lawyer responsible for checking in with a group of people to obtain assignments? To whom does the new lawyer report?
- To the extent possible, discuss the working styles and preferences of those lawyers in the firm/office for whom the new lawyer will likely be working. If the mentor does not have this information, introduce the new lawyer to other lawyers in the firm who can share this information.
- Discuss office culture and administrative details, such as the following: (1) what time new associates are expected to arrive at the office and leave; (2) any flexibility allowed for work hours and "work from home" opportunities; (3) appropriate office attire; and (4) type of social climate amongst staff.
- Discuss the types of tasks new associates should expect on their first three months, first year, and first three years of practice. If the firm evaluates associates using competencies or other methods of

evaluation, the mentor should explain these methods of evaluation. Explain how the new lawyer will obtain practical experience while employed in the firm/office. If there is a formal program for new associates with training over a period of time, explain the structure of that training.

- Discuss the importance of having support staff on your team and treating them with respect.
- Explain to the new lawyer each non-lawyer employee's role in the mentor's office/firm including the employee's title, job duties, and relationship to the new lawyer, if any.
- Share the "do's and don'ts" of dealing with support staff, colleagues, and those more senior than the new lawyer.
- If the new lawyer has an assistant, secretary and/or paralegal, explain the types of tasks that are appropriate and inappropriate to ask each of them to perform.

General Mentoring Tips—Outside Mentoring

- Introduce the new lawyer to members of the mentor's firm, including non-legal staff.
- Explain each employee's role in the firm and each lawyer's area of practice.
- Share co-workers accomplishments that the mentor recommends the new lawyer try to emulate. If the new lawyer is interested, the mentor should assist in scheduling a meeting with those co-workers to discuss their practice.
- Discuss the importance of having support staff on your team and treating them with respect.
- Explain each non-lawyer employee's role in the mentor's office/firm including the employee's title and job duties.
- Share the "do's and don'ts" of dealing with support staff, colleagues, and those more senior than the new lawyer.

- If the new lawyer has an assistant, secretary and/or paralegal, explain the types of tasks that the outside mentor believes are appropriate and inappropriate to ask each of them to perform.

General Mentoring Tip—Getting Off to a Good Start

- Share tips for succeeding in the practice of law, especially in the practice setting in which the new lawyer works.

SECTION 1: INTRODUCTION TO THE LEGAL COMMUNITY

Section 1(c): Introduction to the Organized Bar
Section 1(d): Introduction to the Legal Community

This resource is intended to facilitate a discussion about the organized bar, including local, state and national bar association opportunities and the advantages of being involved in bar association activities.

General Mentoring Tips:

- The Utah State Bar website contains links to dozens of local, state and specialty bars at the following addresses:
 - Bar Sections and Committees:
<http://www.utahbar.org/directories/section-chairs-of-the-utah-state-bar/>
 - Regional and Specialty Bars
<http://www.utahbar.org/directories/leadership-of-regional-and-specialty-bars/>
 - National Organizations:
<http://www.americanbar.org/aba.html>
<http://www.innsofcourt.org/>
- Give the new lawyer examples of local, state, specialty and national bar associations and discuss the differences between them.
Examples:
 - Local Associations
 - State Associations:

- Utah State Bar; Utah Minority Bar Association; Women Lawyers of Utah; Utah Association for Justice
 - Specialty Associations:
 - National Organization of Bar Counsel; Federal Bar Association; Association of Trial Lawyers of America
 - National Associations:
 - American Bar Association; American Inns of Court
- Attend any meeting/event of an organized bar association together and introduce the new lawyer to other lawyers in attendance at the event.
- Share with the new lawyer the association(s) in which the mentor is a member; reasons the mentor is involved in the association(s); activities the mentor is involved in at the association(s); and how involvement in the association(s) has benefit the mentor over the course of his/her career.
- Provide the new lawyer examples of activities one can get involved in as a member of an association. Discuss specific reasons why one would want to be involved in those activities.

**SECTION 1: INTRODUCTION TO THE LEGAL COMMUNITY
&
ELECTION SECTION A: ADVOCACY AND LITIGATION**

Section 1(e): Introduction to the Courthouse
(Optional Activity)

This resource is intended to facilitate a discussion between the Mentor and New Lawyer about the local courthouse and court personnel. NOTE: Many of these tips provide basic information on courtroom protocol and procedures. Mentors should remember that most new lawyers are unfamiliar with such protocol and procedures.

General Mentoring Tips:

- Prior to touring the courthouse, the following materials are excellent resources for the mentor to review with the new lawyer:
 - “Navigating the Court System”: https://www.utcourts.gov/knowcts/docs/Navigating_the_Court_System.pdf
 - “Overview of the Utah Judiciary”: <https://www.utcourts.gov/knowcts/>
 - “Utah’s Appellate Courts” http://www.utcourts.gov/knowcts/docs/Appellate_Court_Brochure.pdf
 - “Navigating the Courtroom,” material produced by Francis. J. Carney. A compilation of useful materials for exposing new lawyers to the realities of the courtroom. (Attached).
- Explain the role of different court staff, including the clerks, the bailiffs, and the judge’s assistants. Discuss the appropriate demeanor with court personnel.
- Go to the local courthouse(s), particularly those courts where the new lawyer will primarily be appearing. To the extent possible, introduce the new lawyer to members of the judiciary, court personnel, and clerks of the court.
- Show the new lawyer where the clerk’s office is and explain where to go to file pleadings, obtain certified copies of case documents, etc. If the mentor has errands at court (which are non-privileged), invite the new lawyer to participate in those errands with the mentor.
- Ask an appropriate court official (administrator, clerk, bailiff, or other) to provide the new lawyer his or her perspective on filing protocols such as cover sheets, courtesy copies, number of copies, etc.
- Ask the bailiff and/or court clerk to answer the following questions related to courtroom protocols:
 - Are lawyers required to check in before a hearing?
 - Are simple or uncontested matters called ahead of the regular docket?

- How should a lawyer handle a situation where s/he is covering two cases scheduled at the same time?
- Are courtesy copies expected? When?
- Should draft orders be proposed with courtesy copies?
- How far in advance to an appearance do judges receive the files?
- Introduce the new lawyer to judicial bench books. The bench books are available online at the following address: <http://litigation.utahbar.org/benchbooks.html>
- Ask judges to share any pointers they have for handling a case in front of them.
- Explain the protocol for meeting with a judge, such as the location of judicial chambers or requesting a meeting with chambers (i.e. who should be contacted); and discuss examples of impermissible *ex parte* communications and how to avoid them.
- Discuss when it is appropriate to enter a courtroom that is in session.
- Discuss how a judge is customarily addressed in the following situations: courtroom; formal functions and events; social settings; or grocery store. Does this custom change depending upon how often you appear before the judge or the capacity in which you know the judge?
- Discuss the appropriate attire for lawyers in your local court(s). Discuss how you should advise your client to dress.
- Discuss the local court rules and how they impact your conduct. Discuss how different judges have different views and interpretations of the local rules, as well as different courtroom practices. To the extent possible, share information in this regard about the preferences of the judges before whom the new lawyer is likely to appear.

- Discuss the importance of punctuality and the expectations of individual judges in this regard.
- Discuss courtroom technology available to litigators, such as overhead projectors, VCR/DVD players, microphones, etc. Provide contact information for or introduce the new lawyer to court personnel who should be contacted when the new lawyer is interested in using technology in a proceeding.
- Discuss the method of establishing a court record in light of the fact that court reporters are no longer utilized in most courtrooms. Discuss the method of obtaining the court record and transcribing the record. Who is responsible for furnishing the record? Who pays for transcribing the record?
- Discuss court procedure for handling exhibits, examining witnesses, and using the podium in the courts before which the new lawyer is likely to appear.

**SECTION 2:
RULES OF PROFESSIONAL CONDUCT AND
STANDARDS OF PROFESSIONALISM AND
CIVILITY**

Common Ethics Issues & Conflicts of Interest

This resource is intended to facilitate a discussion between the Mentor and New Lawyer about the Utah Standards of Professionalism and Civility as well as a discussion regarding common ethical issues and conflicts of interest.

General Mentoring Tips:

- Review the Conflict of Interest Rules. See Rules of Prof. Cond. Rules 1.7 – 1.8.
- If the new lawyer is a government employee (or has been in the past), discuss Rule 1.11.
- If the new lawyer served as a law clerk to a judge or other adjudicative officer, see Rule 1.12.
- Discuss the importance of adequately screening for conflicts of interest.

- **INSIDE MENTORING:** Discuss the firm's procedure for screening for conflicts.
- **OUTSIDE MENTORING:** Describe the mentor's office procedure for screening for conflicts.
- Discuss different types of conflicts of interest that can arise, particularly in the new lawyer's practice area(s) or office setting.
- Give examples of conflicts which can be waived with informed consent. Discuss the procedure for and documents utilized to document your clients' consent to conflicts.

Conflicts and Prospective and Declined Clients:

- Explain the importance of including prospective clients and declined clients in a conflicts database.
 - Are these clients treated like former clients in terms of conflicts?
 - What does it mean if another client comes along with an interest adverse to the prospective client that never hired the lawyer?
- Discuss the obligations you have to a potential client (even when you do not take his or her case) regarding conflicts of interest.

Changing Firms

- Discuss how conflicts are handled when a lawyer changes firms. Should a lawyer be concerned about the same issues when hiring non-lawyer personnel who come from another firm?

Spouses, Relatives and Close Relations

- Discuss the propriety of working on a case where opposing counsel is a spouse, close relative, or any person with whom the lawyer shares a close personal relationship. Does client consent cure the potential problem?

Sharing Office Space

- Many new lawyers, in an attempt to save overhead expenses, consider sharing office space with other lawyers. If your new lawyer is sharing office space, discuss the practical issues that must be resolved when sharing office space with lawyers not in the same firm.
- Review and discuss the attached article regarding office sharing.

SECTION 4: INTRODUCTION TO LAW OFFICE MANAGEMENT

Client Confidentiality

This resource is intended to facilitate discussion about practices for maintaining client confidentiality.

General Mentoring Tips

- Discuss the importance of client confidentiality for current clients. Discuss the limited exceptions that allow disclosure of confidential information, and provide examples where such exceptions apply. Discuss Rule Prof. Cond. 1.6.
- Discuss the obligation to maintain confidentiality of a potential client who consults with the lawyer but no attorney-client relationship is formed. Discuss Rule Prof. Cond. 1.18.
- Discuss the obligation to maintain client confidences after the termination of the attorney-client relationship. Discuss Rule Prof. Cond. 1.9.
- Discuss common mistakes concerning violations of client confidentiality.
- Share practical pointers in and outside the office for safeguarding confidential information. Topics may include the following:

- Procedures for file keeping and ensuring that clients who visit an office do not see confidential information concerning other clients;
- Propriety of discussing client cases in public, including the courthouse;
- Consequences of discussing confidential information with your client when a third party is present by invitation of your client, including a spouse.
- Office procedures for maintaining and destroying client files which impact client confidentiality
- Potential hazards of using email and facsimiles to communicate confidential information about a case.
- The duty to ensure that non-lawyer assistants safeguard confidential information. Discuss Rule Prof. Cond. 5.3.
- Discuss specific examples of confidential client information and when such information can be revealed, including:
 - Propriety of disclosing that you have been retained;
 - Disclosing the name of a client to a third party;
 - Sharing information about a client's case to opposing counsel during negotiations.
- Discuss the appropriate ways to obtain waiver of privilege and the circumstances in which it is likely to arise in the new lawyer's area of practice.
 - Discuss the differences between implied and express waiver and identify conduct which effectuates waiver.

SECTION 4: INTRODUCTION TO LAW OFFICE MANAGEMENT

Introduction to Law Practice Management (Required for Private Practice)

This resource is intended to facilitate a discussion between the mentor and new lawyer about the mentor's law office, how it is managed, and where to locate resources for learning more information about law office management issues.

General Mentoring Tips:

- The American Bar Association has a Law Practice Management Section that provides valuable resources and articles, including helpful information for solo and small firm practitioners:
http://www.americanbar.org/groups/law_practice_management.html.
- All members of the Utah State Bar have access to Casemaker, a free, online legal research tool with a powerful search engine providing access to a combination of state and federal materials, including Utah case law, statutes, court rules, administrative codes and more. Casemaker can be accessed using your bar username and password at the following address:
https://services.utahbar.org/Login?return_url=%2f
- Discuss staff, equipment and other administrative issues in mentor's office, including the best practices for at least the following matters:
 - Mail distribution procedures;
 - Procedures for handling telephone calls, including when they should be returned;
 - Considerations in purchasing office furniture, equipment and supplies and where these items can be purchased;
 - Other resources (publications, CLE seminars, treatises, etc.) that a new

lawyer might find particularly helpful in his or her work.

- Employment and discrimination laws of which an employer must be aware.

Additional Resources:

- ABA Young Lawyers Division, including the YLD Bootcamp series which consists of six free downloads. In the series, lawyers and judges share advice on choosing a career path, getting the most out of your first legal position, networking, being a superstar associate, trial skills, and starting your own practice.
http://www.americanbar.org/groups/young_lawyers.html
- Association of Legal Administrators, Legal Management Resources Center. The center provides numerous resources, online tools, forms and checklists on a variety of law practice management issues including: financial management; human resource management; law firm marketing and advertising; and technology systems:
<http://www.alanet.org/lmrc/directory.asp>
- *Regular File Reviews or "Tickler" Systems*, Todd C. Scott, GPSOLO LAW TRENDS & NEWS, 2009.

SECTION 5(a): WORKING WITH CLIENTS

ELECTIVE SECTION D: CLIENT INTERVIEWING AND COUNSELING

Client Interactions

This resource is intended to facilitate discussion about how to gather initial information about a legal matter, including issues of client confidentiality, client candor, and initial case evaluation decisions.

Mentoring Tips:

- Share the elements of a successful client interview.
 - What types of information should you seek in the interview?

- What kinds of questions must be asked?
- What types of things should you tell your potential client or avoid telling them?
- How should you interact with your client during the interview?

- Explain to the new lawyer ways you assess client credibility.
- Identify ways to create trust with your potential client in the initial interview.
- Allow the new lawyer to observe a client interview.
- Observe the new lawyer conducting a client interview and then discuss the techniques (good and bad) the new lawyer utilized in the interview.

Confidentiality Issues and the Potential Client:

- Discuss the ethical obligations to a potential client even when the attorney does not take the client's case.
- Discuss specific examples of client information which is confidential and when such information should and should not be revealed. Examples for discussion include:
 - Propriety of disclosing that you have been retained by someone
 - Disclosing the name of your client to a third party
- Discuss appropriate ways to obtain waiver of privilege and the circumstances in which it is likely to be obtained in the new lawyer's areas of practice. Discuss the difference between implied and express waiver and identify conduct which effectuates waiver.
- Discuss common mistakes concerning violations of client confidentiality and share practical pointers in and outside the office for safeguarding confidential information. Examples for discussion include:
 - Proper procedures for file keeping and ensuring that clients who visit an office do not see confidential

information concerning other clients.

- Propriety of discussing your client's case in public (even at the courthouse).
- Potential hazards of using email or facsimiles to communicate confidential information.
- Where applicable, discuss confidentiality issues when the new lawyer's client is an entity instead of an individual. Examples for discussion could include:
 - Which communications are confidential?
 - With whom can the new lawyer discuss confidential information?
- Discuss the obligation to maintain confidentiality of potential clients who consult with the new lawyer but no attorney-client relationship is formed.
- Discuss the potential of gaining unintentional clients and ways to avoid doing so.

SECTION 5(b): WORKING WITH CLIENTS

Avoiding Client Conflicts of Interest

This resource is intended to facilitate discussion between mentor and new lawyer about how to screen for, recognize and avoid conflicts of interest.

Mentoring Tips:

- Discuss the importance of adequately screening for conflict of interest. Share with the new lawyer the mentor's office procedure for screening for conflicts.
- Discuss the obligations you have to potential clients, even after you do not take their case, regarding conflicts of interest.
- Explain the importance of including prospective clients and declined clients in a conflicts database. Are these individuals treated like current or former clients in

terms of conflicts? What happens when another prospective client comes along with interests adverse to a prospective client who was never retained by the lawyer?

- Provide examples of conflicts that can be waived with informed consent. Explain how to document your client's consent to conflicts.
- Discuss how conflicts are managed when a lawyer changes firms.

Sharing Office Space

- Often, new lawyers, in an attempt to save overhead expenses, consider sharing office space with other lawyers. Office sharing also affords the advantage of regular, frequent interaction and discussions with colleagues. **However, lawyers sharing office space must take special steps to protect client confidentiality.** Discuss practical issues that must be resolved when sharing office space with lawyers not in the same firm including the safeguarding confidential client information.
- Files, documents, drafts, letters and notes must not be stored in or carelessly left in common spaces. Office sharing attorneys should have separate computer databases and voice messaging systems. Attorneys should take care not to leave documents on shared copy or fax machines. A shared receptionist should understand the confidentiality duties of each lawyer and each attorney has a duty to make sure the receptionist complies with those duties and doesn't reveal client information to the other attorneys or their clients.
- Same confidentiality rules apply if the lawyer shares office space with a non-legal business.
- Attorneys cannot have letterhead, a firm name or otherwise hold themselves out as a firm if they are not actually a firm with shared liability. *See* Rule of Professional Conduct 7.1-7.5. Signage, letterhead and receptionist statements should indicate they are separate practices.

