



The Supreme Court of South Carolina

LAWYER MENTORING PROGRAM

UNIFORM MENTORING PLAN

INTRODUCTION

Under the terms of Rule 425, SCACR, establishing the Lawyer Mentoring Program, the Court has set out nine objectives for the mentoring plan. These objectives are intended to be a guide to the development of the relationship between mentor and the new lawyer and should be addressed on an on-going basis over the course of the mentorship year.

The relationship between the mentor and new lawyer is not a check-list of items to be covered and then ended. It is intended to be the beginning of a long-term professional relationship that enables the new lawyer to create a network of more experienced colleagues that will serve as informal mentors. The goal of the program is to provide the new lawyers with the tools that will enable them to continually enhance their habits, practice skills, knowledge, and professionalism throughout their legal career.

OBJECTIVES

The nine objectives set out by the Supreme Court are as follows:

Objective A

To establish a clear understanding as to the expectations of both the mentor and the new lawyer.

Objective B

To introduce the new lawyer to other members of the legal profession and to other participants in the legal system.

Objective C

To ensure that the new lawyer has a thorough understanding of generally accepted professional values and standards of behavior, as well as an understanding of the need to regularly educate oneself throughout a professional career.

Objective D

To ensure that the new lawyer is fully aware of a lawyer's ethical obligations and how to identify and deal with any ethical issues that may arise.

Objective E

To ensure that the new lawyer is fully aware of the proper practices for avoiding mishandling of other's assets, conflicts of interest, neglect of a matter and other common ethical and civil liability problems.

Objective F

To help the new lawyer create and implement a successful career plan.

Objective G

To assist the new lawyer in improving professional skills necessary for the effective practice of law.

Objective H

If the new lawyer is in private practice, to assist the new lawyer in developing a productive and effective law practice.

Objective I

To help the new lawyer enjoy a healthy personal life while fulfilling his or her professional obligations.

Each objective is to be met through a series of action steps over the course of the mentorship year. Suggested action steps are included in this model plan; however, the mentor and new lawyer should work out a plan that best suits their schedules and workloads. The mentor and new lawyer must complete an individualized mentoring plan. The individual mentoring plan shall be submitted to the Commission on Continuing Legal Education and Specialization (Commission) for approval **within thirty days** of the start of the mentoring term.

PLEASE NOTE

- 1. All nine objectives must be included in your individual mentoring plan.**
- 2. In order to complete the Lawyer Mentoring Program, all nine objectives in your individual mentoring plan must be met.**

SUGGESTED ACTION STEPS

Objective A

To establish a clear understanding as to the expectations of both the mentor and the new lawyer.

Establishing clear expectations is critical to the success of the mentoring relationship. The mentor and the new lawyer should meet in person as soon as possible and develop a plan to address completing all the objectives of the program. A clear plan of action for the course of the next year is the ultimate outcome for this objective.

Things to consider as you set out the steps for meeting this objective include:

1. Schedule the initial meeting, which may be at the office of the mentor, at a bar meeting, or casually for lunch;
2. Determine the frequency of “formal” contact; for example, will you have a weekly, bi-weekly or monthly lunch meeting? Determine the best methods of communication, to include in-person meetings, telephone conversations, e-mails, or a combination of the three;
3. Decide what each party expects to invest in and receive from the mentor relationship;
4. Discuss to what extent the conversations are to be kept confidential;
5. Discuss the balance between being a mentor and being a supervisor if the mentor is also the new lawyer’s supervising lawyer in the office; and
6. Determine methods of introducing the new lawyer to other members of the legal profession and assisting in the development of a network of informal career and personal mentors.

Objective B

To introduce the new lawyer to other members of the legal profession and to other participants in the legal system.

New lawyers often enter the legal profession without the benefit of prior connections in the community in which they will be practicing. Even new lawyers who have relatives who are lawyers may not be located in the same geographical areas where those relatives practice. In addition, there are numerous individuals who are not lawyers who are essential to the smooth working of the legal system. The new lawyer may not be aware of these essential legal professionals. To fulfill this objective, the mentor should introduce the new lawyer to colleagues, judges, clerks, court staff, court reporters and other individuals who function within the legal community.

Things to consider as you create the steps for meeting this objective include:

1. Ensure that the new lawyer becomes involved in local bar activities;
2. Introduce the new lawyer to the clerks of court and key staff members in their offices;
3. Introduce the new lawyer to lawyers who practice in various areas of the law, to include the plaintiff and defense bars;
4. If the new lawyer is likely to practice criminal defense law, the mentor should arrange for the new lawyer to tour the local jail and become familiar with the procedures for visiting the facility. In addition, the new lawyer should be introduced to the local prosecutor and public defender and the staff in the respective offices; and
5. Explain to the new lawyer the court appointment process, the pro bono expectations, and the role of, and key contacts in, the various legal services organizations that provide assistance to indigent persons.

Objective C

To ensure that the new lawyer has a thorough understanding of generally accepted professional values and standards of behavior, as well as an understanding of the need to regularly educate oneself throughout a professional career.

The importance of developing professional standards and exercising civility in the practice of law has been stressed by the Court and is evident in the Lawyer's Oath that all lawyers take upon admission to the SC Bar. Helping the new lawyer to understand the expectations placed on the lawyer by the Lawyer's Oath and the SC Bar Standards of Professionalism is critical to meeting this objective. Discuss the challenges that the new lawyer may encounter in upholding the requirements of these documents. In addition, the mentor should stress the need for continuing legal education which will ensure that the new lawyer remains aware of changes in the law or rules of practice that affect representation of their clients.

Things to consider as you set out the steps for meeting this objective include:

1. Periodic discussions on the following: the role of the lawyer in the legal system; the lawyer's responsibility to their client, to the court, and to adhering to the Rules of Professional Conduct; and, the practical challenges in meeting those responsibilities;
2. Discussions of the particular nature of the role of the lawyer if the new lawyer is a prosecutor, in-house counsel, or agency counsel. Attention should be given to the identification of the client and the duty owed to the entities in the case of in-house or agency counsel;
3. Review the Lawyer's Oath and the requirements placed on the lawyer by the oath;
4. Discuss effective methods of clear communication with the client. In these discussions, cover such matters as client expectations, how to effectively involve the client in a matter, gaining a client's trust and confidence, and ensuring the client understands the lawyer's professional obligations under the Rules of Professional Conduct;
5. Ensure that the new lawyer gains an understanding of the local legal community expectations of etiquette and behavior and the "unwritten rules" of practice in the local community; and
6. Assist the new lawyer in developing an understanding of the importance of, and need for, continuing legal education as a means of advancing their professional goals.

Objective D

To ensure that the new lawyer is fully aware of a lawyer's ethical obligations and how to identify and deal with any ethical issues that may arise.

Members of the legal profession are expected to maintain high professional standards and comply with the Rules of Professional Conduct. Often in the practice, issues arise which require a lawyer to seek assistance in determining the appropriate course of action to avoid violating those rules. In other cases, situations may arise where a colleague is in danger of violating, or has violated those rules, and there is now an ethical obligation on the new lawyer to report that conduct. The mentor must be careful not to render legal advice in this regard, for mentors are expressly precluded from rendering case-specific legal advice. Yet one of the features of the mentoring program is to inculcate in the new lawyer a profound, and ever-increasing, appreciation for professionalism. Professionalism should be a reality, not merely an aspiration. Professionalism is inextricably connected to an understanding of and adherence to the Rules of Professional Conduct. Accordingly, the mentor should ensure the new lawyer remains well versed in the ethical rules and guide the new lawyer in the recognition of, and appropriate resolution of, general ethical issues.

Things to consider as you create the steps for meeting this objective include:

1. Review with the new lawyer the key Rules of Professional Conduct;
2. Assist the new lawyer in identifying at least one other lawyer with whom the new lawyer could discuss potential ethical issues;
3. Assist the new lawyer in identifying other resources for assistance such as the SC Bar's Ethics Advisory Committee or the law firm's ethics committee and the appropriate times to seek the assistance of these groups; and
4. Discuss with the new lawyer how and when to address situations where the new lawyer believes an ethical violation has been committed by another lawyer or when the new lawyer believes that he or she is being instructed to engage in unethical behavior.

Objective E

To ensure that the new lawyer is fully aware of the proper practices for avoiding mishandling of other's assets, conflicts of interest, neglect of a matter and other common ethical and civil liability problems.

A common complaint clients have of lawyers is that the lawyer will not return phone calls or the case is taking too long. The SC Bar's Client Assistance Program (CAP), the Resolution of Fee Disputes Board and the Lawyer's Fund for Client Protection all deal with attorney-client problems. These issues could be avoided with a clear understanding between the lawyer and client or a firm grasp of the ethical obligations of the lawyer as they relate to the management of client funds/assets, conflicts of interest and the importance of proper communication. The mentor should stress the importance of written fee agreements, regular communication with the client, and compliance with the Rules of Professional Conduct with particular emphasis on trust accounts and financial record keeping.

Things to consider as you set out the steps for meeting this objective include:

1. Discuss with the new lawyer the importance of client communication. Provide examples of the types and optimum frequency of communication between lawyer and client;
2. Even if the lawyer is in a firm of a size that will not require him or her to have contact with the trust account, ensure that the new lawyer understands how a trust account works, the proper method of filling out a deposit slip, the necessity of accounting for each client's funds individually, how and when those funds may be disbursed and the Good Funds Rule;
3. Review with the new lawyer the rules of procedure. Emphasize the following: filing deadlines; the importance of ensuring that statutes of limitations do not run; making certain that the client is not subject to a default judgment or sanctions for failure to timely file required pleadings or responses;

4. Discuss common reasons why clients file grievances, fee disputes or civil lawsuits against their lawyers and ways to avoid them;
5. Share technology solutions and other techniques for time management, scheduling, and billing which will enable the new lawyer to avoid problems with clients;
6. Discuss the duty to supervise non-lawyer staff, including a discussion of the need to ensure that non-lawyer staff members do not engage in the unauthorized practice of law;
7. Discuss ethical considerations in contacting judges, including how to avoid impermissible contacts; and
8. Ensure the new lawyer has a clear understanding of the duty of confidentiality and protecting the attorney-client privilege.

Objective F

To help the new lawyer create and implement a successful career plan.

The mentor and new lawyer should discuss the new lawyer's long-term career objectives and how best to achieve them. Assisting the new lawyer in determining which option is best for them is a critical part of the mentor relationship. The new lawyer may consider several employment options to include: entering a large firm with a partnership track; joining a small firm; becoming a solo practitioner; acting as in-house counsel; working in public service; teaching; and pursuing a non-traditional use of the degree. New lawyers bring their own unique set of skills to the profession. They may find that their passion for the legal profession is best served in an employment situation other than where they began their career. By assisting the new lawyer in developing clear career goals, the mentor can help shape a professional future that is both successful and fulfilling. Finding the right combination for the training, skills, and aptitudes of the new lawyer also ensures that he or she is a productive member of the profession and increases retention rates.

Things to consider as you set out the steps for meeting this objective include:

1. Expose the new lawyer to different areas of practice including transactional work, trial work, specialized practice (such as family law, criminal law, estate planning law, bankruptcy law, taxation law, and employment law), or non-traditional areas to ensure that he or she has a broad understanding of the options available;
2. Discuss long-term career goals. If the new lawyer does not have these goals, or is tentative about them, help set goals;
3. Discuss with the new lawyer how to identify areas of the law in which he or she is interested in practicing;

4. Assist the new lawyer in developing a long-term business plan;
5. Identify other lawyers in the community who practice in the areas of interest to the new lawyer and help the new lawyer make connections with those individuals so they may be able to provide assistance; and
6. Discuss the practicalities of office politics and how to deal with them, including dealing with inappropriate or discriminatory behavior.

Objective G

To assist the new lawyer in improving professional skills necessary for the effective practice of law.

The skills of the practice, such as effectively drafting documents, managing deadlines, conducting negotiations, holding depositions, trial preparation, examining witnesses, choosing a jury and a host of other skills are not commonly taught in law school. While the academic side of a lawyer's education teaches one to find the law and to think like a lawyer, there is much to be learned from those engaged in the practice who have honed their skills through time and experience. Whether the skill is engaging a jury or diffusing an angry client, the experienced mentor can effectively relate these skills to the new lawyer.

Things to consider as you set out the steps for meeting this objective include:

1. Discuss effective negotiation techniques. Analyze the behaviors expected during the negotiation process, different approaches to the process, and their effectiveness;
2. If the new lawyer is in the same firm as the mentor, include them in depositions, letting them learn from observation. If they are not in the same firm, discuss the purpose and function of a deposition, how to obtain information from the deponent, what behavior is not acceptable in the course of a deposition, how to prepare your client for a deposition and other techniques and ethical considerations inherent in the process;
3. If possible, observe the new lawyer's performance in a deposition or court proceeding and discuss ways to improve. If observation is not possible, discuss with the new lawyer his or her impressions of the procedure and ways to improve their skills that will not harm the attorney-client relationship; and
4. Discuss appropriate techniques for interviewing clients and witnesses. Provide examples of client intake forms if used by the mentor's firm. Help the new lawyer develop their own effective interview style.

Objective H

If the new lawyer is in private practice, to assist the new lawyer in developing a productive and effective law practice.

Whether the new lawyer is in private practice in a firm or decides to become a solo practitioner, several basic issues will present themselves. Helping the new lawyer to understand some of the fundamental steps involved in developing a practice is essential to the success of the new lawyer. Meeting this objective should involve conversations on topics such as fee agreements, office management skills, advertising, and how and when to terminate a client relationship.

Things to consider as you set out the steps for meeting this objective include:

1. Assist the new lawyer in understanding how to ethically market their practice and the availability of his or her professional services;
2. Discuss with the new lawyer how to decide whether or not to undertake representation of a client;
3. Discuss how to determine what fee is appropriate for the representation;
4. Discuss the importance of written fee agreements/engagement letters with the client;
5. Discuss how to talk to a client about the fee;
6. Discuss the importance of knowing how and when to associate counsel on cases that are beyond their experience levels;
7. Ensure that the new lawyer understands how and when to terminate representation of a client;
8. Ensure the new lawyer develops an appropriate records retention policy; and
9. Discuss the availability of services from the SC Bar. Assistance in evaluating and recommending office policies and procedures is available from the Risk Management Director and advice on law office technology can be provided by the Practice Management Assistance Program Director

Objective I

To help the new lawyer enjoy a healthy personal life while fulfilling his or her professional obligations.

Balancing work and career can prove to be a difficult task. The pressure to meet billable hour requirements in a firm or make payroll while in solo practice can take a toll on the lawyer. The focus of this objective is to help the new lawyer find a balance between his or her career and family and help avoid the problems that can be associated with those pressures.

Things to consider as you set out the steps for meeting this objective include:

1. Identify the warning signs of substance abuse or depression and help the new lawyer to recognize these warning signs;
2. Discuss with the new lawyer the appropriate balance of personal and professional responsibilities;
3. Discuss the appropriateness of contacting the SC Bar's Lawyers Helping Lawyers Director for guidance, assistance, and making a referral for substance abuse or depression; and
4. Discuss methods of handling long-term debt, including student loans.

PROGRAM REQUIREMENTS

The suggested action steps are offered as a guideline for the development of your individual mentoring plan. Each mentor and new lawyer should work out arrangements that best suit their specific professional relationship and work schedule. Given the relationship, other action steps may be more suitable than those suggested above.

After the initial meeting, the mentor and new lawyer must complete the individualized mentoring plan and submit a copy to the Commission for approval within thirty days of the start of the mentoring term. Periodically throughout the year, the plan should be reviewed and updated to ensure that it is still meeting the objectives of the program and the individual goals as set out by the mentor and new lawyer. Upon completion of the one-year mentoring experience, a Certificate of Completion, signed by the mentor and new lawyer, must be submitted to the Commission.

CONCLUSION

The mentor's relationship with the new lawyer has the potential to be one of the most influential relationships of the new lawyer's professional career. It is the goal of the program and the hope of the Supreme Court that the development of strong professional relationships will ensure the successful transition of the new lawyer to the practice of law as he or she becomes a valuable member of the profession. The Court also hopes that the relationships created through this program will provide the new lawyers with a support network that will help them achieve personal and professional success, support the continued civility of the profession, and ensure that lawyers hold themselves to, and comply with, the highest standards of the profession.