

# **Fostering Meaningful Professionalism**

Jon J. Olafson  
Colorado Defense Lawyers Association  
August 5, 2022



## GOALS

---

1. Identify professional and ethical considerations
2. Recognize meaningful differences in people
3. Discuss tips to show up for one another



# PROFESSIONAL AND ETHICAL CONSIDERATIONS

---

## OATH OF OFFICE

1. I will treat all persons whom I encounter through my practice of law with **fairness**, courtesy, **respect**, and honesty
2. I will use my knowledge of the law for the **betterment of society** and the improvement of the legal system
3. I will at all times faithfully and diligently adhere to the **Colorado Rules of Professional Conduct**



# PROFESSIONAL AND ETHICAL CONSIDERATIONS

## Colorado Rules of Professional Conduct

1. **Rule 4.4(a)** -- In representing a client, a lawyer shall not use means that have no substantial purpose other than to **embarrass**, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.
2. **Rule 8.4(g)** --Engage in conduct, in the representation of a client, that exhibits or is intended to appeal to or engender bias against a person on account of that person's **race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status**, whether that conduct is directed to other counsel, court personnel, witnesses, parties, judges, judicial officers, or any persons involved in the legal process;
3. **Rule 8.4(h)** -- engage in any conduct that directly, intentionally, and **wrongfully harms** others and that adversely reflects on a lawyer's fitness to practice law; or
4. **Rule 8.4 (i)** -- engage in conduct the lawyer knows or reasonably should know constitutes **sexual harassment** where the conduct occurs in connection with the lawyer's professional activities.



## PROFESSIONAL AND ETHICAL CONSIDERATIONS

---

### Colorado Rules of Professional Conduct

Comment 3 to Rule 8.4 states: A lawyer who, in the course of representing a client, knowingly manifests by word or conduct, bias or prejudice based upon race, gender, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates paragraph (g) and also may violate paragraph (d). Legitimate advocacy respecting the foregoing factors does not violate paragraphs (d) [prejudicial to the administration of justice] or (g).



## WHAT IS DIVERSITY?

---

### What is “Diversity”? There are multiple approaches:

1. Aspects of our identity that differentiate each of us from others, while recognizing that not each of those unique identities have been subject to legal or social marginalization.
2. Those who come from traditionally and historically marginalized communities are diverse, drawing a distinction, or “othering,” between them and those from the majority.



# INDIVIDUAL IDENTITY DIVERSITY



Adapted from Lee Gardenswartz and Anita Rowe, *Diverse Teams at Work*, Irwin Publishing, 2015



## MEANINGFUL DIFFERENCES

---

Race

Ethnicity

Age

National origin

Sexual orientation

Cultural identity

Assigned sex

Gender identity/non-identity

Physical ability

Mental ability

Neurodiversity

Personal interests

Education Level

Appearance

Citizenship

Citizenship status

Religious beliefs

Geographic location

Familial status

Relationship status

Socioeconomic status

Life experiences

Job function

Relationship to power

Place of work

Home status

Employment status

Union affiliation

Political beliefs

Moral beliefs

Intersectional differences & affinities

Neurodivergence





## MEANINGFUL DIFFERENCES

---

1. Our clients, judges, opposing counsels, co-workers, juries, court reporters, etc. are diverse
2. Based on our professional rules, we need to respect differences and do nothing to harm someone else. This can be a heavy lift and may not be done intentionally.
3. Intent v. Impact – When we discuss harm to others, we should examine what is more important, intent or impact.
4. Know your own implicit and unconscious bias and do not blame others for them. Own them, learn the, and adjust.
5. Acknowledge difference and don't marginalize them or ignore them.



## QUICK DISTINCTION/COMMENTS

---

1. We all have aspects of identity diversity that we present – some we show more prominently than others. There is value in knowing what people are carrying more prominently. That lens has significant value.
2. **There is a difference between being diverse and coming from a marginalized community.** There can be overlap, but they are not the same.
3. Finding **common affinity and building an authentic relationship** is the sweet spot!



## MEANINGFUL DIFFERENCES

---

- How do you satisfy these rules, not impede justice, and not harm someone?
- What steps can you take to understand implicit bias and better interact with people from backgrounds diverse from yours?



## PRACTICAL TIPS

---

### Do Some Personal Work First

- We are lawyers, we read and research well. Do some research on marginalized communities, their history, their struggles, and where they fit in in terms of access to real power and representation and actual leadership in our society.
- You may be uncomfortable because it may not necessarily be the same history and same stories we heard growing up.
- Be curious!
- Avoid asking those in marginalized communities to teach you. If they volunteer, that is great. But, do not expect answers if you do not do the work first.



## PRACTICAL TIPS

---

### LISTEN

- When people speak about their experiences, please listen.
- Remember, just because something was not your experience, does not mean it was not someone else's.
- Listening without judgment will be hard and uncomfortable. Relish in the lack of comfort because that means you are learning.
- Not everything is political. Use a lens of humanity, not politics.
- When appropriate, share your story with the express attempt to find affinity with one another.



## PRACTICAL TIPS

---

### ACT UP OR SPEAK UP

- When you hear or see something that marginalizes someone, say something or do something to stop the action.
- Intent v. Impact – focus on the impact.
- Check-in with those impacted by the marginalizing action and see what they need.
- Have courage – again, this will be uncomfortable.



## PRACTICAL TIPS

---

### SHOW UP

- If there is an event or an opportunity to engage, do it.
- Find opportunities to learn more, support, and be present.
- Chances to engage and learn will help your ability to connect and relate.
- Engage without judgment and have fun with an experience that is not necessarily present in your culture.



## PRACTICAL TIPS

---

### SPACE AND GRACE

- Allow yourself space and grace to get it all figured out. It is hard and it is a lot, but it is important.
- Allow others who are trying space and grace to learn.
- Learning and growing is hard and uncomfortable.





## FINAL THOUGHTS

---

- Our profession requires us to be better and to do better.
- Understand unconscious and implicit bias and learn about your own
- See and understand difference, don't ignore them.
- Take steps to truly show up and learn
- You won't be an expert right away, this takes time. Take the time.