

EFFECTIVE COMMUNICATION WITH THE LEGAL SERVICES CLIENT

The Initial Client Meeting

The initial client meeting sets the tone for the entire relationship. You will need to learn the facts of the case, understand your client's priorities and goals and start to plan your strategy *together*.

The Relationship Starts with "Hello"

- Give your full name and find out the name your client prefers.
- Make friendly small talk to get the conversation flowing. Think of one question you are comfortable asking.

The Retainer or Client Services Agreement

- This is an unfamiliar document. Take a few minutes to explain it and use it to help establish your relationship. Clarify what any fees and expenses are.
- Give a copy of the paperwork to the client.

Meeting Process

- Review any available information in advance and acknowledge it.
- Give the client input, choice and control wherever possible.
- Explain the goals for the meeting and time allotted.
- Ask open-ended questions to get the client's perspective.
- Create a list of "to do's" that should happen before the next meeting.

Establishing the Attorney-Client Relationship

- Check your assumptions at the door.
- Reassure the client that you are on his/her side.
- It is important to test the client's credibility, but you must be reassuring.
- Give control to the client by giving him/her choices when you can, e.g., order of the discussion, method of meeting, responsibility for note-taking.
- Be wary of clients trying to please you.

Teach your clients about the "hidden rules" in the legal system

- Do things start on time?
- Is there an expected dress code for court?
- What cannot be brought into the courtroom?

Client interactions

- Establish boundaries
 - Don't call the client on your personal cell phone unless you want the client calling you on it later.
 - Unless you really are willing to do home visits, don't start them.
- Maintain a professional demeanor even when the client shares bad news. If you respond in anger, the client may start to lie to you.

There is a natural power imbalance that cannot be avoided. You must be attentive to it so it doesn't interfere with your attorney-client relationship.

This is your first opportunity to create a climate of respect and partnership. Don't assume your client knows that your services are free.

Ask: "Are we in agreement that this is what we want to cover today?"

Ask: "What are you hoping for? What's most important?"

Say: "I'm going to ask some questions the other side will ask so I can hear how you will sound when you answer them. Is that OK?"

Say: "I'm okay with either option. You choose what's best for you."

Be aware of cultural differences. Expectations of the fairness of the legal system can vary based on their experience.

Pay attention to whether you can sustain the ways in which you engage.

The keys to a healthy attorney-client relationship: boundaries, clear communication and balance.

Barriers to Effective Legal Representation

There are a number of reasons why pro bono clients may not receive effective legal representation. Issues such as poverty, communication barriers and resource barriers can all work against the client who is seeking your assistance.

Resource Barriers

Resource barriers can affect many aspects of legal representation, such as, whether the client can make it to meetings and be adequately prepared for their case. Examples of common resource barriers are:

- Transportation (No car, parking is too expensive at the courthouse, public transportation is not reliable or safe in their neighborhood)
- Communication (No home or cell phone, no convenient internet access, unreliable postal service in their neighborhood)
- Time constraints (multiple jobs, waiting time at other social service agencies)
- Child care (No reliable child care, no money for a sitter, responsible for the care of other family members)
- Organizational skills and tools (lack of basics such as folders and pens, no experience in an office/court setting)

Unaddressed resource barriers can create conflict between attorney and client.

Communication Barriers

Some clients may have difficulty reading or understanding English for a variety of reasons including:

- Clients may have limited English proficiency (LEP) because they are non-native English speakers. Non-native English speakers may also have literacy issues in their native language, so just translating documents does not always solve the issue.
- Native English speakers may also have literacy issues, especially with reading comprehension.
- Clients may have disabilities that make comprehension difficult.

Once you know the barriers, discuss how to accommodate them:

- Provide an interpreter or translator for documents. Clients may feel like they “should” use English so make it clear that the interpreter is for your own benefit as well as theirs.
- Provide information in different ways such as reviewing documents together rather than asking clients to read it on their own.
- Follow up by asking open-ended questions about what was in the document to ensure understanding.
- Explain legal concepts in simple terms whenever possible.

Ask: *“Are there any days and times that work best for you?”*

If you suggest a time, clients may feel like they need to say yes, even if they know they are unlikely to be able to make an appointment.

If an in person meeting isn't vital, then ask: *“Would it be easier to use the phone or email rather than meet in person?”*

Make sure the client leaves each meeting with a “to-do” list and provide basic supplies if necessary.

Open-ended questions will help you evaluate comprehension throughout your interactions with clients.

Ask: *“We discussed a lot of options today. Can you describe each of the options and what you prefer?”*

Ask: *“There are some special laws to protect people with disabilities. It might help if I know about any disabilities. Is there anything you would like to share with me?”*

Don't assume that because a client is using legal aid, there must be a comprehension issue. Think about a time you've had to learn something outside your area of expertise like finance or a new piece of technology.

Honesty and Confidentiality

Honesty is critical to forging a strong attorney-client relationship. Honesty is also important for building the best possible case and being prepared for anything that may come up. Honesty and confidentiality go hand in hand. Clients are much more likely to be truthful with their attorney if they understand the confidential nature of their relationship.

Honesty

Clients may not be completely honest with their attorney for a number of reasons including:

- Clients may not want to admit to doing something wrong or illegal. They may worry that they will get into trouble if they admit something they did, or they may think that they are more likely to win the case if certain facts don't get out.
- They may feel overly dependent on the attorney and say things they think the attorney wants to hear.
- They may have seen television shows and movies where clients are encouraged to tell a less-than-honest version of their story in order to make the case stronger, and they may assume this is what is expected of them.

Explain the serious consequences of lying to the court. If a client has misled the court, the attorney may be required to correct the misinformation or resign from the case. The client needs to understand the hidden rules of the legal system when it comes to lying.

Confidentiality

The original purpose of confidentiality is to encourage clients to tell the truth. Don't assume that your client knows about attorney-client privilege. Some may be unfamiliar with the legal system and clients from other countries may be used to very different systems. There may also be misconceptions about how confidentiality really works. There are two commonly used approaches to explaining confidentiality to a client:

- Tell the client that everything you tell me is confidential and discuss limitations as they arise.
- Explain the limits of confidentiality right from the start. For example:
 - *"I will keep everything you tell me between you, me and my office."*
 - *"If you share our conversations with other people, you may waive the right to confidentiality."*
 - *"If you are threatening to hurt yourself or others, I may be required to report it to the court."*
 - *"In this state, I am a mandatory reporter of child abuse."*

Early on, tell clients to be completely truthful with you and assure them that whatever the truth is, you will figure out a way to deal with it.

Make the conversation about them and not about your ego. Yelling "don't lie to me" is not effective and will only alienate your client.

Ask: *"What is the worst thing the other side might say about you, even if it's not true?"*

The attorney may feel that holding off on discussing exceptions until they are relevant is preferable so the client can be candid.

Trust is gained in drops and lost in buckets. If you don't tell the client about the exception and it comes up later in the case, it can feel like a major betrayal.

Tips

Try out the techniques and skills we have covered in this course routinely. It will create better client relationships with *all* of your clients, not just legal services or pro bono clients. Better relationships lead to happier lawyers and clients, which ultimately results in better outcomes for everyone.

- Remember that every client is an individual and not every client faces every barrier.
- Make a good introduction. Give your full name and ask the clients what they want to be called. Offer a business card.
- Prepare a retainer agreement and explain it to the client. Give them a copy to take with them.
- Set expectations for meetings. Explain how long they will be, what they will cover and ask what the client's goals for the meeting are.
- Give your client choices.
- Summarize legal documents clearly without using legal jargon; highlight the key points.
- Tell the clients that they should be honest with you, but also explain why honesty is important.
- Ask open-ended questions such as "Can you tell me the story from your point of view?" and "How did things get to the current situation?"
- Ask clients what outcomes they hope to achieve with their case.
- At all times, try to balance the power differential between attorney and client. Ask how you can share responsibility for tasks and address resource barriers.

"Be the lawyer that a legal services client would have chosen if they had been able to make a choice." – Alicia Aiken