



Calm in The Chaos City Attorneys Facing Incivility

**CALM IN THE CHAOS:
CITY ATTORNEYS FACING INCIVILITY**

**Essential Skills Subcommittee
Attorney Development & Succession Committee
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INTRODUCTION

Upon admission to the State Bar and every year thereafter, California attorneys are required to take the following oath:

As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy and integrity.¹

Collectively, these aspirational attributes offer a handy definition of civility. Unfortunately, this commitment to basic civility seems to be under fire from all quarters currently. What does this pledge mean for City Attorneys – and what steps can we take to promote civility more generally with city staff, other attorneys, city councils, committees, and the public?

BACKGROUND

California municipal law attorneys practice within a framework of legal principles, formal requirements, and professional obligations addressing civility. Some of these carry the force of law, while others are optional, but strongly encouraged. Guidance from the State Bar and the City Attorneys Department of Cal Cities provides a good starting point.

State Bar of California. The State Bar formally regulates the conduct of its members through its Rules of Professional Conduct, which are approved first by the State Bar Board of Trustees and subsequently via an order of the California Supreme Court. In May 2018, the Supreme Court issued an order approving 69 Rules of Professional Conduct, including many addressing civility. As noted at the time, this collection of rules “mark[ed] the first overhaul of ethics rules for attorneys licensed in California in nearly 30 years.”²

Included in the 2018 Rules changes were modifications to Rule 8.4.1 (“Prohibited Discrimination, Harassment and Retaliation”). As explained in the comments to the Rule, “[t]his rule permits the imposition of discipline for conduct that would not necessarily result in the award of a remedy in a civil or administrative proceeding if such proceeding were filed.” Thus, the State Bar may open an investigation into an attorney for violation of this Rule without a previous civil finding, thereby adding teeth to the requirement.

The 2018 changes were not the State Bar’s first attempt to address ethics and civility. In 2007, the State Bar Board of Trustees adopted the *California Attorney Guidelines of Civility and Professionalism*,³ a model set of guidelines for members, voluntary bar associations, and courts

¹ California Rule of Court, Rule 9.7(b)

² Leah T. Wilson, Executive Director, State Bar of California

³ Also available online at: https://www.calbar.ca.gov/sites/default/files/2026-01/Civility-Guidelines_Samples.pdf

to use and implement in a way that is effective for the legal community (“Guidelines,” a copy of which is attached). This collection of norms addresses a broad spectrum of attorney behavior and practice, ranging from expansive declarations (“The dignity, decorum and courtesy that have traditionally characterized the courts and legal profession of civilized nations are not empty formalities.” Section 1.) to much more focused concerns (“An attorney should serve papers on the attorney who is responsible for the matter at his or her principal place of work.” Section 7.) As noted in their introduction, the Guidelines are not mandatory rules of professional conduct, rules of practice, or standards of care, and thus, they may not be used as an independent basis for disciplinary charges by the State Bar or claims of professional negligence. Taken together, however, they provide a framework for professionalism to which all attorneys should aspire.

In addition to the Guidelines, the State Bar has also attempted to bolster the civility of its members by working in cooperation with the California Civility Task Force (“Task Force”), a joint project of the California Judges Association and the California Lawyers Association consisting of some 40 leading lawyers and judges. In September 2021, the Task force published its first report, *Beyond the Oath: Recommendations for Improving Civility*.⁴ It offered three suggestions germane to city attorneys:

1. “Require one hour of MCLE devoted to civility training, included in the total number of MCLE hours currently required. Approved civility MCLE programs should highlight the link between bias and incivility and urge lawyers to eliminate bias-driven incivility.” This suggestion was adopted and took effect January 31, 2025.
2. “Require all lawyers, not just those who took the oath after the 2014 rule change, to affirm or reaffirm during the annual license renewal process that: ‘As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy and integrity.’” This was implemented through an amendment to California Rules of Court Rule 9.7, as cited above.
3. “Enact meaningful changes to State Bar disciplinary rules, prohibiting repeated incivility and clarifying that civility is not inconsistent with zealous representation.” Among other things, the State Bar Rules now include Rule 2.3 (“Noncompliance with Attorney Civility Oath Requirement”), which addresses and establishes a fee for failures to adhere to the oath required by California Rules of Court Rule 9.7.

⁴ Available online at:

<https://caljudges.org/docs/PDF/California%20Civility%20Task%20Force%20Report%209.10.21.pdf>

See also: State Bar’s Civility Toolkit - [Attorney Civility and Professionalism | The State Bar of California](#)

Taken as a whole, the State Bar's amendments to the Rules of Professional Conduct, adoption of the Guidelines, and enactment of Task Force recommendations on civility provide a clear message to the practitioner: far from being an antiquated notion, civility remains a relevant element of contemporary legal practice and will be treated accordingly by the profession's licensing body.

The City Attorneys Department of Cal Cities. The Cal Cities' City Attorneys Department ("Department") has likewise adopted its own *Ethical Principles for City Attorneys* ("Ethical Principles," a copy of which is attached).⁵ These set forth a principle, explanation, and set of examples for 10 separate aspects of the municipal practitioner's work. As with the State Bar's Guidelines, the Ethical Principles are not "an effort to duplicate or interpret the State Bar's requirements or create additional regulatory standards," but seek instead to offer a framework of appropriate conduct specific to the field.⁶

Principle 5 ("Professionalism and Courtesy") of the Ethical Principles exhorts attorneys in the field to "conduct [themselves] at all times in a professional and dignified manner, interacting with all elected officials, city staff, members of the public, and the media with courtesy and respect." By way of explanation of this Principle, "the city attorney should be a role model of decorum and composure."

The civility structures put in place by the State Bar and Cal Cities do not comprise the entire edifice of decorous conduct municipal practitioners work within. But even limiting our attention to these two sources provides a more than sufficient model of professional behavior.

PUTTING CIVILITY ADMONITIONS INTO PRACTICE

Reading the admirable language of Rules of Professional Conduct, State Bar Rules, Guidelines, and Ethical Principles is important, but putting such urging into effect in trying times can test even the most dedicated practitioner. Often, the work of the City Attorney's Office includes interactions with individuals bound by no similar set of professional norms or requirements. And the social contract that previously been implicitly understood to dictate a base level of civility amongst all community members increasingly seems to have left such niceties behind.

With this reality in mind, the Essential Skills Subcommittee of the Attorney Development and Succession Committee offers the following practice tips on promoting civility when interacting with other attorneys, city staff, members of the public, and city council and commission members.

⁵ Available online at:

<https://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2011/5-2011-Spring-Michele-Beal-Bagneris-Ethical-Principles>

⁶ City Attorneys Department of the League of California Cities, *Ethical Principles* (October 2005), p. 1.

A. OTHER ATTORNEYS

1. **Do not disparage opposing counsel.** While attorneys are expected to vigorously advocate on behalf of their client, attorneys should focus on legal arguments rather than personal attacks and coercive threats. Disparaging opposing counsel's competence and threatening personal embarrassment generally does not help move legal disputes forward, and violates California's basic civility expectations. More seriously, threatening to weaponize public records requests may qualify as improper intimidation, and using the legal process as a cudgel rather than a remedy. A stronger, and more ethically sound, approach is to calmly and firmly identify the governing legal principles and articulate the consequences of non-compliance, while letting the strength of the legal position speak for itself. "The timbre of our time has become unfortunately aggressive and disrespectful. Language addressed to opposing counsel and courts has lurched off the path of discourse and into the ditch of abuse. This isn't who we are." (*In re Mahoney* (2021) 65 Cal.App.5th 376.)
2. **Do not make threats.** Maintaining a measured tone, declining to match insult with insult, and calling out improper conduct are not only appropriate but encouraged. However, a city attorney, in particular, should never threaten retaliation on unrelated applications or matters. Threatening improper action to gain advantage in a matter is potentially a violation of the rules of professional conduct and raises serious due process concerns. The State Bar's Guidelines provide in this regard:

An attorney should avoid negotiating tactics that are abusive; that are not made in good faith; *that threaten inappropriate legal action*; that are not true; that set arbitrary deadlines; that are intended solely to gain an unfair advantage or take unfair advantage of a superior bargaining position; or that do not accurately reflect the client's wishes or previous oral agreements.⁷

Furthermore, linking the approval or denial of unrelated, independent permit applications to litigation leverage on a separate matter may arguably be an abuse of governmental authority.

⁷ The State Bar of California, *California Attorney Guidelines of Civility and Professionalism* (2007), Section 18, comment 'c', emphasis added, available online at: https://www.calbar.ca.gov/sites/default/files/2026-01/Civility-Guidelines_Samples.pdf

3. **Extend common courtesies.** Generally, requests for extensions of time and accommodations for scheduling difficulties should be considered routine and not addressed with an eye toward brinkmanship. Section 6 ('Scheduling, Continuances, and Extensions of Time') of the Guidelines reminds us that "[c]onsistent with existing law and court orders, an attorney should agree to reasonable requests for extensions of time that are not adverse to a client's interests." Moreover, "[u]nless time is of the essence, an attorney should agree to an extension without requiring motions or other formalities, regardless of whether the requesting counsel previously refused to grant an extension."
4. **Use the discovery process appropriately.** Any attorney who has worked in litigation has seen the abuse of the discovery process and the waste such conduct causes. The Guidelines are clear that "[a]n attorney should not use discovery to harass an opposing counsel, parties, or witnesses. An attorney should not use discovery to delay the resolution of a dispute." (Section 9.) Such advice would have behooved counsel in the matter of *La Jolla Spa MD, Inc. v. Avidas Pharmaceuticals, LLC*. After upholding over \$28,000 in sanctions imposed for truly shocking conduct in the course of a deposition, including incessant interruptions, baseless objections, unrestrained rudeness, and even physical intimidation, the appellate court wrote in conclusion:

Never before in this Court's nearly ten-year tenure have the sanctions the Court imposes today been more fitting and more deserved by an attorney. Chovanes's atrocious conduct at the Gardner deposition in particular fell far below the standard of professional conduct becoming an attorney practicing before this—or any other—Court. There may be a fine line between zealous advocacy and unprofessional conduct, but Chovanes trampled that line long before barreling past it.⁸

B. STAFF

1. **Be a role model with city staff when it comes to civility.** The Guidelines provide in relevant part that "[a]n attorney should treat clients with courtesy and respect, and represent them in a civil and professional manner." (See Section 3.) Similarly, the Ethical Principles provide that "[t]he city attorney should be a role model of decorum and composure." (See Ethical Principle 5.) Former City Manager Diane Kalen-Sukra says that "civility is the everyday ethic of honoring the dignity of others as we would wish our own to be honored - an active commitment to justice, respect, and mutual responsibility in shared civic life." Adopting this as one's default posture for working with staff sets a tone across the organization.

⁸ *La Jolla Spa MD, Inc. v. Avidas Pharmaceuticals, LLC*, 2019 US Dist., Lexis 148721.

2. **Avoid disparaging others, especially around city staff.** When it comes to dealing with an attorney who engages in uncivil conduct, avoid the temptation to do the same. The Guidelines provide in relevant part that “. . . an attorney should not allow clients to prevail upon the attorney to engage in uncivil behavior.” (See Section 3.) The Ethical Principles provide that “[t]he city attorney should show professional respect for city staff, colleagues, the legal system and opponents. The city attorney should not personally attack or denigrate individuals, particularly in public forums.” (Example 4 of Ethical Principle 5.) City attorneys should also “. . . not seem to endorse, by silence or otherwise, offensive comments made to him/her about others.” (Example 5 of Ethical Principle 5.)
3. **When appropriate, help staff by playing the role of an unbiased, plain-language “educator” on the applicable legal issues/standards.** This often works better as part of the staff presentation before public comments so the city attorney is less likely to find themselves responding to a public comment which can appear like the city attorney is arguing with the member of the public.⁹ In any context, “the city attorney should communicate in a way that is sensitive to both the context and audience, explaining the law in a way that is understandable.” (Example 2 of Ethical Principle 5.)
4. **Plan ahead with staff on how to best deal with the public.** Particularly when facing a hearing on a potentially controversial project, seek to prepare staff and the board or commission chair or mayor on how to deal with acrimonious public comments, so they are better equipped to maintain objectivity and conduct themselves free of bias. Benjamin Franklin’s advice that “by failing to prepare, you are preparing to fail” can feel all too true in a high-stress public meeting when such planning has been overlooked.
5. **Be supportive of staff when they face incivility.** Staff are usually on the front line of City decision-making. Therefore, they may face public scrutiny, criticism, and backlash in meetings, on social media, or in the press. Be willing to listen to their concerns – sometimes they just need a sounding board. A Kenyan proverb tells us that “sticks in a bundle are unbreakable.” Be that support when times are tough.

C. THE PUBLIC

1. **Familiarize yourself with Brown Act provisions regarding disruptions at public meetings.** The legislative body may adopt rules of procedure for members of the public

⁹ See *Politically astute, but not political . . . Politics and the Role of the City Attorney*, Spring Conference, May 7, 2025, https://www.calcities.org/docs/default-source/city-attorneys-spring-conference/politically-astute-but-not-political-.-.-politics-and-the-role-of-the-city-attorney.pdf?sfvrsn=8c3a6f03_3.

to address the body, including regulations limiting the amount of time allocated for public testimony and for individual speakers (Government Code Section 54954.3(b)(1)). However, such bodies cannot prohibit criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the body (Government Code Section 54954.3(c)).

The Brown Act also authorizes the presiding officer of the legislative body to remove or cause to be removed an individual disrupting a meeting, including a teleconferenced meeting. Note that prior to removal, barring any actual true threat of force, the presiding officer must warn the individual that their behavior is disrupting the meeting and that failure to cease may result in removal. If the disruptive behavior continues, then the presiding officer or designee may remove the individual (Government Code Section 54957.95). (But see *Norse v. City of Santa Cruz* (9th Cir. 201) 629 F.3d 966 (silent and momentary Nazi salute directed toward mayor is not a disruption); *Acosta v. City of Costa Mesa* (9th Cir. 2013) 718 F.3d 800 (city council may not prohibit “insolent” remarks by members of the public absent actual disruption); but see *Kirkland v. Luken* (S.D. Ohio 2008), 538 F.Supp.2d 857 (finding no First Amendment violation by mayor for turning off microphone and removing speaker who used foul and inflammatory language that was deemed as “likely to incite the members of the audience during the meeting, cause disorder, and disrupt the meeting”).

2. **Familiarize yourself with local rules of procedure.** Government Code Sections 36813 and 54954.3(b) authorize City Councils to establish rules of conduct for its proceedings. Many Councils have adopted such local rules that address conduct during a meeting. Such rules include allowable time for speakers at public comment, procedures for conducting a meeting, procedures for addressing disruptions at a meeting, and designation of a staff member to act as a sergeant at arms (such as a Police representative). The City Attorney should be familiar with the local rules of procedure, especially before a contentious meeting. The City Attorney should also review the rules in advance of a meeting to confirm they are up to date and consistent with current practice and current Brown Act regulations.
3. **Have a game plan.** If the City Attorney expects a contentious hearing, it is best to plan ahead and coordinate with the Mayor and other key staff such as the City Manager, the City Clerk, and/or the Police Chief. Decide who will take on roles at the meeting such as Timekeeper and Sergeant at Arms. Consider in advance what to do if speakers continue to speak past the allotted time or are disrupting the meeting: take a break, clear the room if necessary and authorized by rules of procedure and the Brown Act, remove disruptive persons if justified.

4. **Consider other arenas for public education and discourse.** If staff is aware that an issue may generate public interest, then consider agendizing a Study Session to educate the City Council and the public on the topic (such as a session on new streamlined ministerial requirements). Post resources on the City’s website for the public’s education.

D. CITY COUNCILS

1. **Have a good set of norms/civility policy.** Work with your City Council to establish or update an agreed-upon set of norms with a documented civility policy, code of conduct, or rules of decorum. These documents set expectations for how the city council will model the behavior it expects from the public. ILG has compiled a list of sample codes and policies.¹⁰
2. **Help your City Council understand the limits of the First Amendment and the requirements of the Brown Act when it comes to public meetings.** Educate your City Council, and especially your Mayor, on the legal “actual disruption” standard for limiting public speakers and the relevant provisions of the Brown Act.¹¹

CONCLUSION

The rewards of civility go far beyond the mere satisfaction of the profession’s mores. When faced with adversity, it can be tempting to stray from such obligations. Faithful adherence to the rules and guidelines set out above, however, elevate the profession and the practitioner, especially in the face of exasperation and irritation. Internalizing and practicing the aspirations to civility within with the municipal law community works can only serve to nurture ‘the better angels of our nature’ and so improve the communal work we do.

RESOURCES

1. Hon. Wendy Chang & Hon. Mary H. Strobel (Ret.), *Improving Civility* (2024 Annual Conference), available online at: <https://www.calcities.org/docs/default-source/annual-conference---session-materials/improving-civility.pdf>

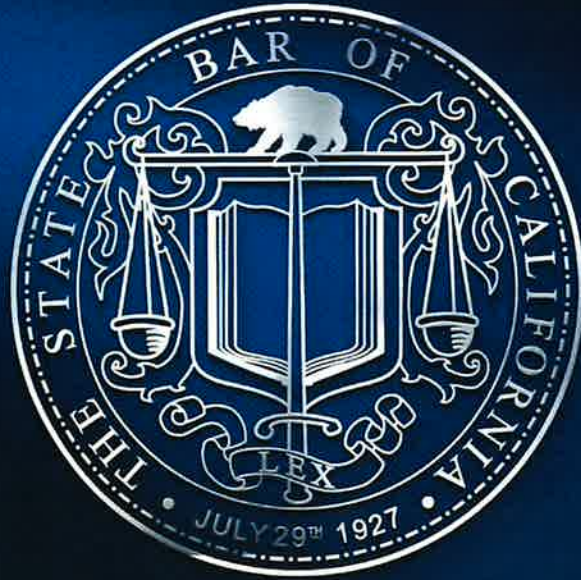
¹⁰ See ILG, Sample Civility Policies (Last Updated 2022), available online at: <https://www.ca-ilg.org/civility>

¹¹ See *Tips for Dealing With the Public*; see also Government Code §§ 54957.9 and 54957.95; and David Mehretu, *Balancing Acts: Constitutional Rights vs. Meeting Decorum in California Cities* (2024 Spring Conference), available online at: https://www.calcities.org/docs/default-source/city-attorneys-spring-conference/balancing-acts---constitutional-rights-v.-public-meeting-decorum-in-california-cities.pdf?sfvrsn=56d8cc96_3.

2. The State Bar of California, *The State Bar of California Civility Toolbox*, available online at: <https://www.calbar.ca.gov/legal-professionals/legal-resource-center/ethics/attorney-civility-and-professionalism>
3. California Civility Task Force, *Beyond the Oath: Recommendations for Improving Civility* (September 2021), available online at: <https://caljudges.org/docs/PDF/California%20Civility%20Task%20Force%20Report%209.10.21.pdf>
4. City Attorneys Department of the League of California Cities, *Cal Cities Ethical Principles for City Attorneys* (October 6, 2025), available online at: <https://www.cacities.org/UploadedFiles/LeagueInternet/d6/d60445e6-7918-459b-9780-00a714616297.pdf>
5. Rebecca Moon, James Ross, & Andrew Shen, *The Latest in Legal Ethics for Municipal Lawyers* (2025 Spring Conference), available online at: https://www.calcities.org/docs/default-source/city-attorneys-spring-conference/the-latest-in-legal-ethics-for-municipal-lawyers_new5.7.pdf?sfvrsn=7c443532_3
6. City Attorneys Department of the League of California Cities, *Counsel and Council: A Guide to Building a Productive City Attorney-City Council Relationship* (2022), available online at: [cc-counsel-council-2022-ver4.pdf](#)
7. Melissa Kuehne, *Breaking the Cycle: Steps for Reducing Negative Discourse and Incivility in Public Meetings*, Western City Magazine (January 1, 2022), available online at: <https://www.westerncity.com/article/breaking-cycle-steps-reducing-negative-discourse-and-incivility-public-meetings>
8. David Mehretu, *Balancing Acts: Constitutional Rights vs. Meeting Decorum in California Cities* (2024 Spring Conference), available online at: https://www.calcities.org/docs/default-source/city-attorneys-spring-conference/balancing-acts---constitutional-rights-v.-public-meeting-decorum-in-california-cities.pdf?sfvrsn=56d8cc96_3
9. David A. Grenardo, *Civility Rules: Debunking the Major Myths Surrounding Mandatory Civility for Lawyers and Five Mandatory Civility Rules That Will Work*, The Georgetown Journal of Legal Ethics (Vol. 37:167, 2024), available online at:

<https://www.law.georgetown.edu/legal-ethics-journal/wp-content/uploads/sites/24/2024/09/GT-GJLE240010.pdf>

10. Joseph Petta, Derek P. Cole, Dan Sodergren, & Jennifer Mizrahi, *Staffing a Public Meeting: From War Stories to Your Story* (2022 Spring Conference), available online at: [5-2022-Spring:-Staffing-a-Public-Meeting-From-War](#)



**CALIFORNIA ATTORNEY
GUIDELINES OF
CIVILITY
AND
PROFESSIONALISM**

INTRODUCTION

As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution.

These are guidelines for civility. The Guidelines are offered because civility in the practice of law promotes both the effectiveness and the enjoyment of the practice and economical client representation. The legal profession must strive for the highest standards of attorney behavior to elevate and enhance our service to justice. Uncivil or unprofessional conduct not only disserves the individual involved, it demeans the profession as a whole and our system of justice.

These voluntary Guidelines foster a level of civility and professionalism that exceed the minimum requirements of the mandated Rules of Professional Conduct as the best practices of civility in the practice of law in California. The Guidelines are not intended to supplant these or any other rules or laws that govern attorney conduct. Since the Guidelines are not mandatory rules of professional conduct, nor rules of practice, nor standards of care, they are not to be used as an independent basis for disciplinary charges by the State Bar or claims of professional negligence.

The Guidelines are intended to complement codes of professionalism adopted by bar associations in California. Individual attorneys are encouraged to make these guidelines their personal standards by taking the pledge that appears at the end. The Guidelines can be applicable to all lawyers regardless of practice area. Attorneys are encouraged to comply with both the spirit and letter of these guidelines, recognizing that complying with these guidelines does not in any way denigrate the attorney's duty of zealous representation.

SECTION 1

RESPONSIBILITIES TO THE JUSTICE SYSTEM

The dignity, decorum and courtesy that have traditionally characterized the courts and legal profession of civilized nations are not empty formalities. They are essential to an atmosphere that promotes justice and to an attorney's responsibility for the fair and impartial administration of justice.

SECTION 2

RESPONSIBILITIES TO THE PUBLIC AND THE PROFESSION

An attorney should be mindful that, as individual circumstances permit, the goals of the profession include improving the administration of justice and contributing time to persons and organizations that cannot afford legal assistance.

An attorney should encourage new members of the bar to adopt these guidelines of civility and professionalism and mentor them in applying the guidelines.

SECTION 3

RESPONSIBILITIES TO THE CLIENT AND CLIENT REPRESENTATION

An attorney should treat clients with courtesy and respect, and represent them in a civil and professional manner. An attorney should advise current and potential clients that it is not acceptable for an attorney to engage in abusive behavior or other conduct unbecoming a member of the bar and an officer of the court.

As an officer of the court, an attorney should not allow clients to prevail upon the attorney to engage in uncivil behavior.

An attorney should not compromise the guidelines of civility and professionalism to achieve an advantage.

SECTION 4

COMMUNICATIONS

An attorney's communications about the legal system should at all times reflect civility, professional integrity, personal dignity, and respect for the legal system. An attorney should not engage in conduct that is unbecoming a member of the Bar and an officer of the court.

For example, in communications about the legal system and with adversaries:

- a. An attorney's conduct should be consistent with high respect and esteem for the civil and criminal justice systems.
- b. This guideline does not prohibit an attorney's good faith expression of dissent or criticism made in public or private discussions for the purpose of improving the legal system or profession.

- c. An attorney should not disparage the intelligence, integrity, ethics, morals or behavior of the court or other counsel, parties or participants when those characteristics are not at issue.
- d. Respecting cultural diversity, an attorney should not disparage another's personal characteristics.
- e. An attorney should not make exaggerated, false, or misleading statements to the media while representing a party in a pending matter.
- f. An attorney should avoid hostile, demeaning or humiliating words.
- g. An attorney should not create a false or misleading record of events or attribute to an opposing counsel a position not taken.
- h. An attorney should agree to reasonable requests in the interests of efficiency and economy, including agreeing to a waiver of procedural formalities where appropriate.
- i. Unless specifically permitted or invited by the court or authorized by law, an attorney should not correspond directly with the court regarding a case.

Nothing above shall be construed as discouraging the reporting of conduct that fails to comply with the Rules of Professional Conduct.

SECTION 5 PUNCTUALITY

An attorney should be punctual in appearing at trials, hearings, meetings, depositions and other scheduled appearances.

For example:

- a. An attorney should arrive sufficiently in advance to resolve preliminary matters.
- b. An attorney should timely notify participants when the attorney will be late or is aware that a participant will be late.

SECTION 6 SCHEDULING, CONTINUANCES AND EXTENSIONS OF TIME

An attorney should advise clients that civility and courtesy in scheduling meetings, hearings and discovery are expected as professional conduct.

For example:

- a. An attorney should consider the scheduling interests of the court, other counsel or party, and other participants, should schedule by agreement whenever possible, and should send formal notice after agreement is reached.

- b. An attorney should not arbitrarily or unreasonably withhold consent to a request for scheduling accommodations or engage in delay tactics.
- c. An attorney should promptly notify the court and other counsel of problems with key participants' availability.
- d. An attorney should promptly notify other counsel and, if appropriate, the court, when scheduled meetings, hearings or depositions must be cancelled or rescheduled, and provide alternate dates when possible.

In considering requests for an extension of time, an attorney should consider the client's interests and need to promptly resolve matters, the schedules and willingness of others to grant reciprocal extensions, the time needed for a task, and other relevant factors.

Consistent with existing law and court orders, an attorney should agree to reasonable requests for extensions of time that are not adverse to a client's interests.

For example:

- a. Unless time is of the essence, an attorney should agree to an extension without requiring motions or other formalities, regardless of whether the requesting counsel previously refused to grant an extension.
- b. An attorney should agree to an appropriate continuance when new counsel substitutes in.
- c. An attorney should advise clients that failing to agree with reasonable requests for time extensions is inappropriate.
- d. An attorney should not use extensions or continuances for harassment or to extend litigation.
- e. An attorney should place conditions on an agreement to an extension only if they are fair and essential or if the attorney is entitled to impose them, for instance to preserve rights or seek reciprocal scheduling concessions.
- f. If an attorney intends that a request for or agreement to an extension shall cut off a party's substantive rights or procedural options, the attorney should disclose that intent at the time of the request or agreement.

SECTION 7

SERVICE OF PAPERS

The timing and manner of service of papers should not be used to the disadvantage of the party receiving the papers.

For example:

- a. An attorney should serve papers on the attorney who is responsible for the matter at his or her principal place of work.
- b. If possible, papers should be served upon counsel at a time agreed upon in advance.
- c. When serving papers, an attorney should allow sufficient time for opposing counsel to prepare for a court appearance or to respond to the papers.
- d. An attorney should not serve papers to take advantage of an opponent's absence or to inconvenience the opponent, for instance by serving papers late on Friday afternoon or the day preceding a holiday.
- e. When it is likely that service by mail will prejudice an opposing party, an attorney should serve the papers by other permissible means.

SECTION 8

WRITINGS SUBMITTED TO THE COURT, COUNSEL OR OTHER PARTIES

Written materials directed to counsel, third parties or a court should be factual and concise and focused on the issue to be decided.

For example:

- a. An attorney should not make ad hominem attacks on opposing counsel.
- b. Unless at issue or relevant in a particular proceeding, an attorney should avoid degrading the intelligence, ethics, morals, integrity, or personal behavior of others.
- c. An attorney should clearly identify all revisions in a document previously submitted to the court or other counsel.

SECTION 9

DISCOVERY

Attorneys are encouraged to meet and confer early in order to explore voluntary disclosure, which includes identification of issues, identification of persons with knowledge of such issues, and exchange of documents.

Attorneys are encouraged to propound and respond to formal discovery in a manner designed to fully implement the purposes of the Civil Discovery Act.

An attorney should not use discovery to harass an opposing counsel, parties, or witnesses. An attorney should not use discovery to delay the resolution of a dispute.

For example:

- a. As to Depositions:

1. When another party notices a deposition for the near future, absent unusual circumstances, an attorney should not schedule another deposition in the same case for an earlier date without opposing counsel's agreement.
 2. An attorney should delay a scheduled deposition only when necessary to address scheduling problems and not in bad faith.
 3. An attorney should treat other counsel and participants with courtesy and civility, and should not engage in conduct that would be inappropriate in the presence of a judicial officer.
 4. An attorney should remember that vigorous advocacy can be consistent with professional courtesy, and that arguments or conflicts with other counsel should not be personal.
 5. An attorney questioning a deponent should provide other counsel present with a copy of any documents shown to the deponent before or contemporaneously with showing the document to the deponent.
 6. Once a question is asked, an attorney should not interrupt a deposition or make an objection for the purpose of coaching a deponent or suggesting answers.
 7. An attorney should not direct a deponent to refuse to answer a question or end the deposition without a legal basis for doing so.
 8. An attorney should refrain from self-serving speeches and speaking objections.
- b. As to Document Demands:
1. Document requests should be used only to seek those documents that are reasonably needed to prosecute or defend an action.
 2. An attorney should not make demands to harass or embarrass a party or witness or to impose an inordinate burden or expense in responding.
 3. If an attorney inadvertently receives a privileged document, the attorney should promptly notify the producing party that the document has been received.
 4. In responding to a document demand, an attorney should not intentionally misconstrue a request in such a way as to avoid disclosure or withhold a document on the grounds of privilege.
 5. An attorney should not produce disorganized or unintelligible documents, or produce documents in a way that hides or obscures the existence of particular documents.
 6. An attorney should not delay in producing a document in order to prevent opposing counsel from inspecting the document prior to or during a scheduled deposition or for some other tactical reason.

c. As to Interrogatories:

1. An attorney should narrowly tailor special interrogatories and not use them to harass or impose an undue burden or expense on an opposing party.
2. An attorney should not intentionally misconstrue or respond to interrogatories in a manner that is not truly responsive.
3. When an attorney lacks a good faith belief in the merit of an objection, the attorney should not object to an interrogatory. If an interrogatory is objectionable in part, an attorney should answer the unobjectionable part.

SECTION 10 MOTION PRACTICE

An attorney should consider whether, before filing or pursuing a motion, to contact opposing counsel to attempt to informally resolve or limit the dispute.

For example:

- a. Before filing demurrers, motions to strike, motions to transfer venue, and motions for judgment on the pleadings, an attorney should engage in more than a pro forma effort to resolve the issue.
- b. In complying with any meet and confer requirement in the California Code of Civil Procedure, an attorney should speak personally with opposing counsel and engage in a good faith effort to resolve or informally limit an issue.
- c. An attorney should not engage in conduct that forces an opposing counsel to file a motion and then not oppose the motion.
- d. An attorney who has no reasonable objection to a proposed motion should promptly make this position known to opposing counsel, who then may file an unopposed motion or avoid filing a motion.
- e. After opposing a motion, if an attorney recognizes that the movant's position is correct, the attorney should promptly advise the movant and the court of this change in position.
- f. Because requests for monetary sanctions, even if statutorily authorized, can lead to the destruction of a productive relationship between counsel or parties, monetary sanctions should not be sought unless fully justified by the circumstances and necessary to protect a client's legitimate interests and then only after a good faith effort to resolve the issue informally among counsel.

SECTION 11 DEALING WITH NONPARTY WITNESSES

It is important to promote high regard for the profession and the legal system among those who are neither attorneys nor litigants. An attorney's conduct in dealings with nonparty witnesses should exhibit the highest standards of civility.

For example:

- a. An attorney should be courteous and respectful in communications with nonparty witnesses.
- b. Upon request, an attorney should extend professional courtesies and grant reasonable accommodations, unless to do so would materially prejudice the client's lawful objectives.
- c. An attorney should take special care to protect a witness from undue harassment or embarrassment and to state questions in a form that is appropriate to the witness's age and development.
- d. An attorney should not issue a subpoena to a nonparty witness for inappropriate tactical or strategic purposes, such as to intimidate or harass the nonparty.
- e. As soon as an attorney knows that a previously scheduled deposition will or will not, in fact, go forward as scheduled, the attorney should notify all counsel.
- f. An attorney who obtains a document pursuant to a deposition subpoena should, upon request, make copies of the document available to all other counsel at their expense.

SECTION 12 EX PARTE COMMUNICATION WITH THE COURT

In a social setting or otherwise, an attorney should not communicate ex parte with a judicial officer on the substance of a case pending before the court, unless permitted by law.

SECTION 13 SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

An attorney should raise and explore with the client and, if the client consents, with opposing counsel, the possibility of settlement and alternative dispute resolution in every matter as soon as possible and, when appropriate, during the course of litigation.

For example:

- a. An attorney should advise a client at the outset of the relationship of the availability of informal or alternative dispute resolution.
- b. An attorney should attempt to evaluate a matter objectively and to de-escalate any controversy or dispute in an effort to resolve or limit the controversy or dispute.

- c. An attorney should consider whether alternative dispute resolution would adequately serve a client's interest and dispose of the controversy expeditiously and economically.
- d. An attorney should honor a client's desire to settle the dispute quickly and in a cost-effective manner.
- e. An attorney should use an alternative dispute resolution process for purposes of settlement and not for delay or other improper purposes, such as discovery.
- f. An attorney should participate in good faith, and assist the alternative dispute officer by providing pertinent and accurate facts, law, theories, opinions and arguments in an attempt to resolve a dispute.
- g. An attorney should not falsely hold out the possibility of settlement as a means for terminating discovery or delaying trial.

SECTION 14 CONDUCT IN COURT

To promote a positive image of the profession, an attorney should always act respectfully and with dignity in court and assist the court in proper handling of a case.

For example:

- a. An attorney should be punctual and prepared.
- b. An attorney's conduct should avoid disorder or disruption and preserve the right to a fair trial.
- c. An attorney should maintain respect for and confidence in a judicial office by displaying courtesy, dignity and respect toward the court and courtroom personnel.
- d. An attorney should refrain from conduct that inappropriately demeans another person.
- e. Before appearing in court, an attorney should advise a client of the kind of behavior expected of the client and endeavor to prevent the client from creating disorder or disruption in the courtroom.
- f. An attorney should make objections for legitimate and good faith reasons, and not for the purpose of harassment or delay.
- g. An attorney should honor an opposing counsel's requests that do not materially prejudice the rights of the attorney's client or sacrifice tactical advantage.
- h. While appearing before the court, an attorney should address all arguments, objections and requests to the court, rather than directly to opposing counsel.

- i. While appearing in court, an attorney should demonstrate sensitivity to any party, witness or attorney who has requested, or may need, accommodation as a person with physical or mental impairment, so as to foster full and fair access of all persons to the court.

SECTION 15 DEFAULT

An attorney should not take the default of an opposing party known to be represented by counsel without giving the party advance warning.

For example an attorney should not race opposing counsel to the courthouse to knowingly enter a default before a responsive pleading can be filed. This guideline is intended to apply only to taking a default when there is a failure to timely respond to complaints, cross-complaints, and amended pleadings.

SECTION 16 SOCIAL RELATIONSHIPS WITH JUDICIAL OFFICERS, NEUTRALS AND COURT APPOINTED EXPERTS

An attorney should avoid even the appearance of bias by notifying opposing counsel or an unrepresented opposing party of any close, personal relationships between the attorney and a judicial officer, arbitrator, mediator or court-appointed expert and allowing a reasonable opportunity to object.

SECTION 17 PRIVACY

An attorney should respect the privacy rights of parties and nonparties.

For example:

- a. An attorney should not inquire into, attempt or threaten to use, private facts concerning any party or other individuals for the purpose of gaining an advantage in a case. This guideline does not preclude inquiry into sensitive matters relevant to an issue, as long as the inquiry is pursued as narrowly as possible.
- b. If an attorney must inquire into an individual's private affairs, the attorney should cooperate in arranging for protective measures, including stipulating to an appropriate protective order, designed to assure that the information revealed is disclosed only for purposes relevant to the pending litigation.
- c. Nothing herein shall be construed as authorizing the withholding of information in violation of applicable law.

SECTION 18

NEGOTIATION OF WRITTEN AGREEMENTS

An attorney should negotiate and conclude written agreements in a cooperative manner and with informed authority of the client.

For example:

- a. An attorney should use boilerplate provisions only if they apply to the subject of the agreement.
- b. If an attorney modifies a document, the attorney should clearly identify the change and bring it to the attention of other counsel.
- c. An attorney should avoid negotiating tactics that are abusive; that are not made in good faith; that threaten inappropriate legal action; that are not true; that set arbitrary deadlines; that are intended solely to gain an unfair advantage or take unfair advantage of a superior bargaining position; or that do not accurately reflect the client's wishes or previous oral agreements.
- d. An attorney should not participate in an action or the preparation of a document that is intended to circumvent or violate applicable laws or rules.

In addition to other applicable Sections of these Guidelines, attorneys engaged in a transactional practice have unique responsibilities because much of the practice is conducted without judicial supervision.

For example:

- a. Attorneys should be mindful that their primary goals are to negotiate in a manner that accurately represents their client and the purpose for which they were retained.
- b. Attorneys should successfully and timely conclude a transaction in a manner that accurately represents the parties' intentions and has the least likely potential for litigation.
- c. With client approval, attorneys should consider giving each party permission to contact the employees of the other party for the purpose of promptly and efficiently obtaining necessary information and documents.

SECTION 19

ADDITIONAL PROVISION FOR FAMILY LAW PRACTITIONERS

In addition to other applicable Sections of these Guidelines, in family law proceedings an attorney should seek to reduce emotional tension and trauma and encourage the parties and attorneys to interact in a cooperative atmosphere, and keep the best interest of the children in mind.

For example:

- a. An attorney should discourage and should not abet vindictive conduct.
- b. An attorney should treat all participants with courtesy and respect in order to minimize the emotional intensity of a family dispute.
- c. An attorney representing a parent should consider the welfare of a minor child and seek to minimize the adverse impact of the family law proceeding on the child.

SECTION 20

ADDITIONAL PROVISION FOR CRIMINAL LAW PRACTITIONERS

In addition to other applicable Sections of these Guidelines, criminal law practitioners have unique responsibilities. Prosecutors are charged with seeking justice, while defenders must zealously represent their clients even in the face of seemingly overwhelming evidence of guilt. In practicing criminal law, an attorney should appreciate these roles.

For example:

- a. A prosecutor should not question the propriety of defending a person accused of a crime.
- b. Appellate counsel and trial counsel should communicate openly, civilly and without rancor, endeavoring to keep the proceedings on a professional level.

SECTION 21

COURT PROCEEDINGS

Judges are encouraged to become familiar with these Guidelines and to support and promote them where appropriate in court proceedings.

California Attorney Guidelines of Civility and Professionalism

ATTORNEY'S PLEDGE

I commit to these Guidelines of Civility and Professionalism and will be guided by a sense of integrity, cooperation and fair play.

I will abstain from rude, disruptive, disrespectful, and abusive behavior, and will act with dignity, decency, courtesy, and candor with opposing counsel, the courts and the public.

As part of my responsibility for the fair administration of justice, I will inform my clients of this commitment and, in an effort to help promote the responsible practice of law, I will encourage other attorneys to observe these Guidelines.

(Signature)

(Date)

(Print Name)

California Attorney Guidelines of Civility and Professionalism

Sample Resolution

**RESOLUTION OF [_____]
APPROVING AND ADOPTING CALIFORNIA ATTORNEY
GUIDELINES OF CIVILITY AND PROFESSIONALISM**

RECITALS

A. As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution.

B. Civility and professionalism have been affected by a number of factors, as a result of which there is a need for attorneys to recommit themselves to the principles of civility and professionalism.

C. On July 20, 2007, the Board of Governors of the State Bar of California adopted California Attorney Guidelines of Civility and Professionalism (the "Civility Guidelines").

D. The Board of Directors of [_____] are of the unanimous opinion that the Civility Guidelines will be of significant assistance in encouraging members of [_____] to continue to enhance their reputation and commitment to civility and professionalism.

RESOLUTION

The Board of Directors of [_____] hereby approves and endorses the California Attorney Guidelines of Civility and Professionalism and recommends that all members of [_____] commit to and agree to be guided by such guidelines.

Dated: _____

[_____]

By: _____

California Attorney Guidelines of Civility and Professionalism

Sample Court Order

1. The Court expects counsel to be familiar with and follow the California Attorney Guidelines of Civility and Professionalism (the “Civility Guidelines”).
2. A copy of the Civility Guidelines may be obtained on the web at the following URL:

<https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Attorney-Civility-and-Professionalism>

3. Uncivil or unprofessional behavior will not be tolerated.
4. The Court expects parties to resolve all disputes regarding scheduling or time extensions without the necessity of Court involvement.



Ethical Principles for City Attorneys

Thursday, May 5, 2011 General Session; 2:00 – 4:15 p.m.

Michele Beal Bagneris, City Attorney, Pasadena



Ethical Principles for City Attorneys¹

Adopted October 6, 2005

Preamble

A city attorney occupies an important position of trust and responsibility within city government. Central to that trust is an expectation and commitment that city attorneys will hold themselves to the highest ethical standards. Every effort should be made to earn the trust and respect of those advised, as well as the community served.

The City Attorneys Department of the League of California Cities has therefore adopted these ethical principles to:

- ❑ Serve as an aspirational guide to city attorneys in making decisions in difficult situations,
- ❑ Provide guidance to clients and the public on the ethical standards to which city attorneys aspire, and
- ❑ Promote integrity of the city and city attorney office.

City attorneys are also subject to the State Bar's Rules of Professional Conduct. Rules of particular interest to a City Attorney include: Rules 1-100 (general application of rules), 2-100 (communication with a represented party), 2-400 (discriminatory conduct), 3-100 (confidential information), 3-110 (competence), 3-120 (sexual relations with client), 3-210 (advising violation of law), 3-310 (adverse interests), 3-500 (communication), 3-510 (settlement offer), 3-600 (organization as client), 5-100 (threatening charges), 5-110 (filing criminal charges), 5-210 (witness at trial), and 5-220 (suppression of evidence)². For an explanation of how the rules apply to city attorneys, please see [Practicing Ethics](#) published by the League of California Cities in 2004, available at www.cacities.org/attorneys. These aspirational ethical principles are not an effort to duplicate or interpret the State Bar's requirements or create additional regulatory standards.

¹ When used in this document, the term "city attorney" refers to all persons engaged in the practice of municipal law. This includes attorneys in firms that provide legal services to cities on an ongoing basis that are the functional equivalent to services provided by assistant or deputy city attorneys (for example, on redevelopment and personnel issues).

² The listing of certain Rules of Professional Conduct particularly relevant to City Attorneys was added to the adopted report for the session on "Professional Responsibility Challenges for Today's City Attorney" at the 2011 City Attorneys Spring Conference.

City Attorney Ethical Principles

Adopted October 6, 2005

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The role of the city attorney and the client city varies. Some city attorneys are full-time public employees appointed by a city council; some are members of a private law firm, who serve under contract at the pleasure of a city council. A few are directly elected by the voters; some are governed by a charter. When reflecting on the following principles, the city attorney should take these variations into account.

The city attorney should be mindful of his or her unique role in public service and take steps to ensure his or her words and deeds will assist in furthering the underlying intent of these principles.

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Fundamental Principles (There is no significance to the order of the list.)

Principle 1 (Rule of Law). As an officer of the courts and local government, the city attorney should strive to defend, promote and exemplify the law's purpose and intent, as determined from constitutional and statutory language, the case law interpreting it, and evidence of legislative intent. As an attorney representing a public agency, the city attorney should promote the rule of law and the public's trust in city government by providing representation that helps create a culture of compliance with ethical and legal obligations.

***Explanation.** The city attorney's advice and actions should always proceed from the goal of promoting the rule of law in a free, democratic society. Because the public's business is involved, within the city organization the city attorney should consistently point out clear legal constraints in an unambiguous manner, help the city to observe such constraints, identify to responsible city officials known legal improprieties and remedies to cure them, and if necessary, report up the chain of command to the highest level of the organization that can act on the client city's behalf.*

Examples

1. The city attorney should give advice consistent with the law and the policy objectives underlying those laws, but may consider and explain good faith arguments for the extension or change of a legal principle.
2. The city attorney should not attempt to justify a course of action that is clearly unlawful. Where the city attorney's good faith legal assessment is that an act or omission would be clearly unlawful, the city attorney should resist pressure to be "creative" to come up with questionable legal conclusions that will provide cover for the elected or appointed public officials to take actions which are objectively unlikely to be in conformance with the legal constraints on the city's actions.
3. The city attorney's guiding principle in providing advice and services should be sound legal analysis. The city attorney should not advise that a course of action is legal solely because it is a common practice ("everyone else does it that way"), a past practice ("we have always done it that way"), or because the risk of suit or other consequence for action is considered low.
4. The city attorney's advice should reflect respect for the legal system.
5. If the city has made a decision that the city attorney believes may be legally harmful to the city, the city attorney should encourage the city to take any necessary corrective action but do so in a way that minimizes any damage to the city's interests.
6. The city attorney should be willing to give unpopular legal advice that meets the law's purpose and intent even when the advice is not sought but the legal problem is evident to the attorney.

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7. The city attorney should not only explain and advise the city on the law, but should encourage the city to comply with the law's purpose and intent.

Principle 2 (Client Trust). The city attorney should earn client trust through quality legal advice and the manner in which the attorney represents the city's interests.

***Explanation.** It is difficult for the city attorney to effectively represent the city if public officials do not trust the city attorney's competence and professionalism.*

Examples

1. The city attorney should use available resources to maximize his or her ability to advise knowledgeably on issues of municipal law.
2. The city attorney should be clear with individual council members and staff on the extent to which their communications with the city attorney can and will be kept confidential. The city attorney should be especially clear when confidentiality cannot be lawfully maintained.
3. Sometimes the city attorney will be asked a question during a public or private meeting and the city attorney is unsure of the answer. When time permits, the city attorney should advise that additional time is needed to research the matter and provide an appropriate response. If extra time is not available, then the city attorney should be candid regarding any uncertainty he or she feels about the answer given.
4. When a question is posed and the city attorney knows there is no definitive, clear conclusion, the city attorney should describe the competing legal considerations, as well as inform the city of the legally supportable courses of action, together with an evaluation of the course that is most likely to be upheld.
5. In the event the city attorney is asked in a public forum to provide advice that could undermine the city's ultimate position, the city attorney should seek to meet in closed session, if legally permissible, or, if time permits, provide his or her opinion in a confidential memorandum. If the advice must be given during an open session, then the city attorney must be mindful of the impact that advice given in public may have on the city's ultimate position.
6. When the city attorney has a duty to provide documents or other information to outside law enforcement authorities, he or she should do so in a way to minimize harm to the city consistent with that duty.

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Principle 3 (No Politicization). The city attorney should provide legal advice in a manner that avoids the appearance that the advice is based on political alignment or partisanship, which can undermine client trust.

***Explanation.** The city attorney and the city attorney's advice need to be trusted as impartial by the entire council, staff and community.*

Examples

1. The city attorney should provide consistent advice with the city's overall legal interests in mind to all members of the city team regardless of their individual views on the issue.
2. Each city council member, irrespective of political affiliation, should have equal access to legal advice from the city attorney, while legal work on a matter consuming significant legal resources should require direction from a council majority.
3. The city attorney or persons seeking to become city attorney should not make campaign contributions to or participate in the campaigns of that city's officials, including candidates running for that city's offices or city officers running for other offices. For private law firms serving as city attorney or seeking to become city attorney, this restriction should apply to the law firm's attorneys.³
4. When considering whether to become involved in policy advocacy on an issue that may potentially come before the city, the city attorney should evaluate whether such involvement might compromise the attorney's ability to give unbiased advice or create the appearance of bias.

Principle 4 (No Self Aggrandizement). The city attorney should discharge his or her duties in a manner that consistently places the city's interests above self-advancement or enrichment.

***Explanation.** The city attorney, by his or her acts and deeds, should demonstrate that his or her highest professional priority is to serve the city's needs.*

Examples

1. The city attorney's operating and legal services budget requests should be based on the goal of efficiently serving the client city's realistic legal needs (*i.e.* avoid "empire building").

³ This example does not affect contributions to the League or its subsidiary bodies for educational or any other purpose, including any League educational programs designed to prepare officials for higher office.

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2. The city attorney should provide advice without a focus on garnering personal support or avoiding personal criticism.
3. While it is appropriate for a city attorneys to provide both advisory and litigation services, a city attorney should give the city a full range of reasonable options including alternatives to litigation for resolving issues.

Principle 5 (Professionalism and Courtesy). The city attorney should conduct himself/herself at all times in a professional and dignified manner, interacting with all elected officials, city staff, members of the public, and the media with courtesy and respect.

***Explanation.** The city attorney should be a role model of decorum and composure.*

Examples

1. The city attorney should provide advice and information to the council and individual council members in an evenhanded manner consistent with city policy governing the provision of legal services to the city.
2. The city attorney should communicate in a way that is sensitive to both the context and audience, explaining the law in a way that is understandable.
3. In interactions with the public, the city attorney's role is to explain procedures and the law, but not engage in debate.
4. The city attorney should show professional respect for city staff, colleagues, the legal system and opponents. The city attorney should not personally attack or denigrate individuals, particularly in public forums.
5. The city attorney should not seem to endorse, by silence or otherwise, offensive comments made to him/her about others.
6. Sometimes the city attorney will provide advice in public, either because of a city's approved practices or as necessitated during a public meeting. Such advice should be provided in a low-key, dispassionate and non-confrontational manner.
7. The tone of the city attorney's advice and representation should not give the appearance of a personal attack on an individual, even when it is necessary to explain that a particular official's action is unlawful.
8. The city attorney should be open to constructive feedback and criticism.

Principle 6 (Policy versus Law). The city attorney's obligation is to understand the city's policy objectives and provide objective legal advice that outlines the legally defensible options available to the city for achieving those objectives.

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Explanation. *The city attorney must respect policymakers' right to make policy decisions.*

Examples

1. The city attorney may offer input on policy matters, but should make clear when an opinion is legal advice and when it is practical advice.
2. The city attorney should not let his or her policy preferences influence his or her legal advice.
3. If a city attorney finds it necessary to advise the city that a particular course of action would be unlawful, the city attorney should strive to identify alternative approaches that would lawfully advance the city's goals.

Principle 7 (Consistency). The city attorney should conduct his or her practice in a way that consistently furthers the legitimate interests of cities.

Explanation. *Consistency in the legal positions taken by city attorneys is vital to city attorneys' credibility with the courts, clients, and the public.*

Examples

1. The city attorney should not represent a private client if that representation will necessitate advancing legal principles adverse to cities' clearly recognized and accepted interests.
2. When providing advice, the city attorney should inform his or her city of any far-reaching negative impacts a position may have on the city's own potential future interests as well as cities' interests in general, particularly when establishing legal precedent.
3. The city attorney should carefully consider whether to hire or recommend a firm that advances legal principles adverse to city interests on behalf of private clients.

Principle 8 (Personal Financial Gain). The city attorney's primary responsibility is to serve the city's interest without reference to personal financial gain.

Explanation. *An important aspect of the city attorney profession is public service.*

Examples

1. The city attorney should provide the highest possible quality work regardless of the remuneration received.

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2. The city attorney's representation should be based on a realistic understanding of the city's needs in light of the city's fiscal and other constraints. However the city attorney should advise the city when additional resources are necessary to provide the level of legal services the city requires.
3. The city attorney should refrain from providing unnecessary or redundant services to the city.
4. The city attorney should never use the power, resources or prestige of the office for personal gain.

Principle 9 (Hiring by and of City Attorneys). The selection and retention of the city attorney and city attorney staff should be based on a fair process that emphasizes professional competence and experience. The process should not include inappropriate considerations such as political, personal or financial ties.

***Explanation.** The public's trust in the quality of the city's legal services is undermined if it appears that considerations other than competence affected the decision to hire someone.*

Examples

1. The city attorney should engage staff and vendors based on objective standards relating to professional competence and experience.
2. The city attorney should avoid providing gratuities to decision-makers during the pendency of decisions relating to the city attorney's employment.
3. City attorneys must keep employment negotiations separate from the city attorney's role as the city's legal advisor.
4. The city attorney should not undermine the employment of an incumbent city attorney. The city attorney may respond to unsolicited inquiries from a potential client about future representation.
5. The city attorney should maintain an office that is open to employees from diverse backgrounds and remove unnecessary barriers to success in his or her office and in the legal profession.
6. The city attorney should not award or recommend award of litigation or legal services-related contracts if the public could question whether the contract was awarded for reasons other than merit, such as the contractor (or member of the contractor) providing gifts to or participating in political campaigns of (including making campaign contributions to) officials with the power to award the contracts.

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7. The city attorney should hire or recommend staff and consultants who adhere to these ethical principles and encourage existing staff and consultants to do likewise.

8. The city attorney should seriously consider refusing to represent cities that do not support the city attorney's adherence to these principles

Principle 10 (Professional Development). The city attorney should contribute to the profession's development by improving his or her own knowledge and training and by assisting other public agency attorneys and colleagues in their professional development.

***Explanation.** For city attorneys to remain a vital, positive part of municipal government, members of the profession should take affirmative actions to advance respect for and proficiency by its practitioners.*

Examples

1. City attorneys have a strong tradition of assisting their colleagues through formal or informal sharing of their knowledge and expertise, including active participation in the League of California Cities, the State Bar and a local municipal attorney group or bar association. This tradition also includes sharing of research and opinions when consistent with protecting client confidences.

2. The city attorney should continually strive to improve his or her substantive knowledge of the law affecting municipalities through presenting or attending appropriate educational programs.

3. The city attorney should keep in mind the dynamic nature of municipal law and update his or her understanding of the law on an issue, rather than relying on past knowledge.