

## LEARNING AND COMPETENCY OUTCOMES FOR COLORADO LICENSED LEGAL PARAPROFESSIONALS (LLPS)

Preamble: Licensed Legal Paraprofessionals (LLPs) must understand Equity, Diversity, and Inclusion (EDI) issues in the context of communicating with the Court, the client, the opposing party(s), counsel, other LLPs, ADR professionals, experts and third parties. The LLP should be mindful of the diverse nature of families and respect cultural, individual, and role differences, including those based on age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, education, and socioeconomic status.

The LLP cannot advise clients on the specific exercise of rights and/or responsibilities in areas of the law that fall outside of the approved areas of practice. However, we recognize that clients will look to them as a source of information about all aspects of Family Law.

### A. GENERAL LEARNING AND COMPETENCY OUTCOMES

For all the designated practice areas, Colorado Licensed Legal Paraprofessionals must have knowledge and understanding of the following:

- (1) Substantive Law:
  - a. The LLP must have sufficient knowledge and experience with family law to advise the client regarding the client's rights and/or responsibilities;
  - b. The LLP must recognize that a client may have additional rights and/or responsibilities that lie outside the purview of the LLP's practice; and
  - c. The LLP must understand their responsibility to encourage clients in such cases to consult with a licensed attorney.
  
- (2) Legal ethics: The LLP must have sufficient knowledge of the rules and principles of ethical conduct governing the legal profession and the specific rules of practice and principles of professional and ethical conduct governing LLPs.

(3) Rules governing the unauthorized practice of law: The LLP must understand the limitations of their authority to practice law. Specifically, the LLP must understand that there is a distinction between the general practice of law which may only be practiced by licensed attorneys, and the limited practice of law that LLPs are authorized to engage in under their limited license. The LLP must be aware of the rules concerning the unauthorized practice of law. When there is any doubt about the distinction, the LLP must refrain from providing that service, must counsel the client accordingly, and offer to refer the client to one or more licensed attorneys.

(4) Client intake and interviewing. The LLP must have sufficient knowledge of the principles and skills necessary for client intake and interviewing, and direct experience to include:

- a. The type of information that is necessary, where and why it is needed, and where it must be provided in court forms or other necessary documents;
- b. How to obtain that information from the client, including how to articulate clear, precise, and relevant questions;
- c. The ability to re-formulate questions that have not been answered (or not answered fully);
- d. The ability to analyze and formulate appropriate follow-up questions;
- e. The ability to evaluate the scope of the case to ensure the case is within the licensure of the LLP; and
- f. The knowledge and skills necessary to analyze and identify what additional documents and other information are necessary to serve the client, and where to obtain it.

(5) Effective and ethical client communication. The LLP must possess the skills to both communicate information to the client and obtain information from the client:

- a. Communication to the client must be clear, relevant, and comprehensible using language the client can understand;
- b. All developments in the case must be conveyed to the client in a timely manner, including but not limited to the tender of all filings, related deadlines, and notification of all substantive communications, written or verbal:
  - i. The LLP must possess listening and comprehension skills to obtain relevant facts, goals, and concerns from the client; and

- ii. The LLP must be able to ask pertinent questions and direct the conversation in a manner that is both efficient and respectful to the client.
- (6) Reading, Comprehension, and Analysis.
- a. Law: The LLP must have the ability to read and interpret documents including court records, the court Registry of Actions (ROA), court orders, Colorado statutes, court rules, Chief Justice Directives (“CJD”), ethics opinions, and case law;
  - b. Written and oral comprehension: The LLP must have the ability to comprehend all written and oral information related to the client’s case; and
  - c. Analysis: The LLP must have the ability to understand and apply the applicable legal standards and identify other issues related to the client’s case.
- (7) Communication Skills.
- a. Written: The LLP must have the ability to complete forms and prepare other necessary documents in language that is accurate, clear, precise, and responsive to the documents and issues facing the client; and
  - b. Oral: The LLP must have the ability to communicate with the Court, the client, the opposing party(s), counsel, other LLPs, ADR professionals, experts and third parties in a manner that is accurate, clear, precise, and responsive to the issues facing the client.
- (8) Research skills. The LLP must have the knowledge and skills to obtain any information necessary to fulfill the LLP’s obligations to the client, including the ability to:
- a. Meaningfully access information using library (or legal) research;
  - b. Conduct computer and internet-based searches for legal content;
  - c. Investigate and problem solve; and
  - d. Navigate court records and other government databases.
- (9) Negotiation and Mediation Skills. LLPs must demonstrate sufficient knowledge of the negotiation and mediation processes, negotiation and mediation theories, and best practices to allow the LLP to assist clients in negotiated and mediated agreements.

(10) General knowledge of the legal system and legal terminology. LLPs must have sufficient understanding of the legal system, including common legal terminology to:

- a. Understand the context in which the LLP serves clients and to serve them competently and professionally;
- b. Understand what matters are beyond the competence and licensure of the LLP; and
- c. Refer clients to appropriate sources of help (including referrals to attorneys, appropriate public officials, or to other sources of information and assistance) for those matters beyond the licensure and competence of the LLP.

(11) Knowledge of the court system, court rules, Chief Justice Directives (CJDs) and relevant procedures. Sufficient knowledge of the judicial system and the rules of procedure in that system to provide competent assistance within the LLP's scope of practice, and to provide information and legal advice to clients, including:

- 1) Jurisdiction;
- 2) Rules and procedures regarding proper service of process and other legal documents;
- 3) Pleading procedures and deadlines regarding Petitions and Summonses, Motions, and Responses or other filings,
- 4) This should include, at a minimum, a basic familiarity with:
  - a. The Colorado Rules of Civil Procedure;
  - b. Chief Justice Directives;
  - c. Magistrate Rules;
  - d. Appellate Procedure;
  - e. The Colorado Rules of Evidence; and
  - f. The Colorado Statutes concerning Domestic Relations matters.

## B. LEARNING AND COMPETENCY OUTCOMES - SUBSTANCE-SPECIFIC LEARNING AND COMPETENCY OUTCOMES.

Generally. In each designated practice area, Colorado Licensed Legal Paraprofessionals must understand and demonstrate competence in the following:

1. Knowledge of the general principles of law, including terminology, sources of law (i.e. relevant statutes, rules, significant cases, and Chief Justice Directives), legal proceedings and remedies to understand fully the context and implications of those services the LLP is permitted to provide, and to understand the limits of those services.
2. Familiarity with court-approved forms and other necessary documents, and the ability to access all court approved forms:
  - a. An understanding of which forms are appropriate to the circumstances and requested relief;
  - b. The ability to evaluate a client's situation and determine the correct form and/or other necessary documents to use to achieve the client's objective;
  - c. The ability to determine which types of relief or other services are not properly addressed by an approved form and/or other necessary documents thereby falling outside the LLP's competence and licensure.
3. Experience and proficiency in completing each of the relevant family law forms and/or other necessary documents.
4. Experience in applying Family Law knowledge to a client's circumstances through simulation courses, clinical internships, or similar training.

#### C. LEARNING AND COMPETENCY OUTCOMES - Knowledge of Family Law.

In addition to the general requirements above, prospective LLPs desiring to work in Family Law should understand and be competent in the following:

- a. Dissolution of Marriage or Legal Separation, Dissolution of Civil Union, Declaration of Invalidity of Marriage, Allocation of Parental Responsibility (APR) and determination of parentage as related to APR. Colorado Revised Statutes §14-10-101 et. seq.
  1. Jurisdiction and Venue (determining the correct State/Judicial District/County) C.R.S. §14-10-106, C.R.C.P. Rule 98, including the Uniform Interstate Family Support Act (UIFSA), the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and the Indian Child Welfare Act (ICWA).

2. Initial Paperwork for filing – Case Information Sheet, Petition, Summons and Waiver of Service.
3. Allocation of Parental Responsibilities.
  - i. Standing (Colorado Revised Statutes §14-10-123);
  - ii. Determination of parentage when parentage is in dispute (Colorado Revised Statutes §§14-10-107(4), 14-10-123 (1.8), 19-4-101 et.seq.);
  - iii. Best Interests of the Children: Understanding the Best Interests factors regarding parenting time (Colorado Revised Statutes §14-10-124(1.5)(a):
    - (I) The wishes of the child’s parents as to parenting time;
    - (II) The wishes of the child if they are sufficiently mature to express reasoned and independent preferences as to the parenting time schedule;
    - (III) The interaction and interrelationship of the child with their parents, their siblings, and any other person who may significantly affect the child’s best interests;
    - (III.5) Any report related to domestic violence that is submitted to the court by a child or family investigator, if one is appointed pursuant to section 14-10-116.5; a professional parental responsibilities evaluator, if one is appointed pursuant to section 14-10-127; or a legal representative of the child, if one is appointed pursuant to section 14-10-116. The court may consider other testimony regarding domestic violence from the parties, experts, therapists for any parent or child, the department of human services, parenting time supervisors, school personnel, or other lay witnesses.
    - (IV) The child’s adjustment to his or her home, school, and community;
    - (V) The mental and physical health of all individuals involved, except that a disability alone shall not be a basis to deny or restrict parenting time;
    - (VI) The ability of the parties to encourage the sharing of love, affection, and contact between the child and the other party; except that, if the court determines that a party is acting to protect the child from

witnessing domestic violence or from being a victim of child abuse or neglect or domestic violence, the party's protective actions shall not be considered with respect to this factor;

(VII) Whether the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support;

(VIII) The physical proximity of the parties to each other as this relates to the practical considerations of parenting time;

(IX) and (X) Repealed.

(XI). The ability of each party to place the needs of the child ahead of his or her own needs.

iii. Understanding the Best Interests factors regarding decision-making (Colorado Revised Statutes §14-10-124(1.5)(b):

(I) Credible evidence of the ability of the parties to cooperate and to make decisions jointly;

(II) Whether the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support that would indicate an ability as mutual decision makers to provide a positive and nourishing relationship with the child;

(III) Whether an allocation of mutual decision-making responsibility on any one or a number of issues will promote more frequent or continuing contact between the child and each of the parties.

iv. Parenting time schedules for minor child(ren) considering their ages and particular needs;<sup>1</sup>

v. Endangerment concerns (Colorado Revised Statutes §§14-10-124(2), 129(2.5), 129(3), 129(4)):

- a. Supervised parenting time (when appropriate);
- b. Domestic violence and the impact on child(ren)/parenting;
- c. Unaddressed mental health conditions that impact parenting;
- d. Unaddressed mental health conditions of the child(ren);

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<sup>1</sup> As proposed by an appointed CFI or PRE, and/or from another source determined by the parties or the Court (See, e.g. <https://www.azcourts.gov/portals/31/parentingtime/ppwguidelines.pdf>).

- e. Substance abuse and addiction challenges of parent(s) and/or child(ren);
  - f. Convictions of crimes impacting parenting;
  - g. Involvement of Child Protective Services;
  - h. Other restrictions on contact (TPOs, PPOs, MPOs).
- vi. Parenting classes (when minor child(ren) are involved), Colorado Revised Statutes §14-10-123.7.
  - vii. Sole vs. Joint Decision-Making in the context of the full range of family dynamics.
  - viii. Child and Family Investigations, Child Legal Representatives and Parental Responsibility Evaluations, Decision-making (when needed, how to select a CFI /CLR /PRE/PC/DM/arbitrator, role/scope of evaluation), the need for an appropriately trained and appropriately experienced (trauma-informed) CFI /CLR /PRE/PC/DM/arbitrator, and when the involvement of a licensed attorney is necessary. C.R.S. §14-10-116, C.R.S. §14-10-116.5, C.R.S. §14-10-127, C.R.S. §14-10-127.5, CJDs 04-08 and 21-02.
  - ix. Enforcement of Parenting Time. C.R.S. §14-10-129.5.
  - x. Modification of Parenting Time. C.R.S. §14-10-129.
  - xi. Relocation. C.R.S. §14-10-129(2).
  - xii. Modification of Decision-making. C.R.S. §14-10-131.
4. Child Support C.R.S. §14-10-115.<sup>2</sup>
- a. Determining Incomes:
    - a. Full-time v. part-time employment;
    - b. Mandatory v. voluntary overtime;
    - c. Imputation of income;
    - d. Low income issues;
    - e. Other forms of income;
    - f. Determining incomes when a party is not forthcoming with financial information;
    - g. Disclosure/Discovery Issues.

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<sup>2</sup> Certainly, if the parties have disparate financial resources, the Court should complete an analysis pursuant to C.R.S. §14-10-119 and *IRM Rose*, 134 P.3d 559 (Colo. App. 2006).



- b. How Parenting Time affects Child Support.
- c. Navigating Child Support Worksheets:
  - a. Maintenance payments;
  - b. Nonjoint child(ren);
  - c. Joint child(ren) with different overnight schedules;
  - d. Number of overnights;
  - e. Childcare costs;
  - f. Benefits/health insurance;
  - g. Extraordinary medical expenses;
  - h. Determining shared school costs;
  - i. Other extraordinary expenses;
  - j. Child(ren)'s income.
  - k. Nonparents with APR.
- d. Burden of proof regarding worksheet numbers.
- e. Transportation costs.
- f. Deviation requirements.
- iii. Criteria for modifying /terminating child support.
  - a. Change of circumstances;
  - b. Annual exchange of information.
- iv. Emancipation.
- v. Allocation of dependency exemptions (taxes);
- 2. Maintenance.
  - i. Calculation of maintenance:
    - a. Factors;
    - b. Burden of proof regarding factors;
  - ii. Amount and duration of award, if any:
    - a. Predissolution filing;
    - b. Temporary;
    - c. Permanent;
    - d. Retroactivity.
  - iii. Tax issues;

- iv. Waiver of maintenance;
- v. Contractual, nonmodifiable maintenance.
- vi. Modification of maintenance:
  - a. Under C.R.S. §14-10-122 (unfair);
  - b. Under C.R.S. §14-10-122 (1)(a) (*IRM Cauffman*, 829 P.2d 501 (1992));
- vii. Termination of maintenance.
- viii. Life insurance to secure maintenance and/or child support award.

D. LEARNING AND COMPETENCY OUTCOMES - Division of Assets and Debts.

- 1. Assets.
  - a. Types of Assets:<sup>3</sup>
    - a. Real Property;
    - b. Titled Vehicles;
    - c. Cash on Hand, Bank, Checking, Savings, or Health Accounts;
    - d. Other Personal Property (Furniture, Household Goods, and Other Personal Property, i.e. Jewelry, Antiques, Collectibles, Artwork, Power Tools, etc.);
    - e. Stocks, Bonds, Mutual Funds, Securities & Investment Accounts;
    - f. Pension, Profit Sharing, or Retirement Funds;
    - g. Miscellaneous Assets:<sup>4</sup>
      - a. Business Interests;
      - b. Stock Options and Restricted Stock Units (RSUs);
      - c. Money/Loans owed to party(s);
      - d. IRS Refunds due to party(s);
      - e. Country Club & Other Memberships;
      - f. Livestock, Crops, Farm Equipment;
      - g. Pending lawsuit or claim;
      - h. Accrued Paid Leave (sick, vacation, personal);
      - i. Oil and Gas Rights;

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<sup>3</sup> When valuation of assets is at issue, the involvement of a licensed attorney may be necessary.

<sup>4</sup> This list is not all-inclusive.

- j. Vacation Club Points;
  - k. Safety Deposit Box/Vault;
  - l. Trust Beneficiary;
  - m. Cryptocurrency;
  - n. Health Savings Accounts;
  - o. Mineral and Water Rights;
  - p. Frequent Flyer Miles;
  - q. Education Accounts
  - r. Season tickets to sports teams.
- ii. Disposition of Assets:
  - a. Determining what is premarital property (joint property acquired before the marriage and not divisible by the DR Court), what is marital property and what is separate property;
  - b. Burden of proof and documentation for separate property;
  - c. Interspousal gifts;
  - d. Gifts from others;
  - e. Inheritance;
  - f. Increase in value during marriage.
- iii. Valuation.
- iv. Allocation:
  - a. Title/status of ownership (with documentation);
  - b. Title/status of encumbrance(s) (with documentation);
- v. Transferring and/or dividing property:
  - a. How to transfer title;
    - a. C.R.C.P. 70 for Clerk of Court to transfer title of property;
    - b. Quitclaim deed or Special Warranty Deed.
  - b. Refinancing or selling;
  - c. Division of retirement and QDROs (Qualified Domestic Relations Order);
  - d. Indemnification language;
  - e. Enforcement language.
- vi. Dissipation issues:

- a. Marital waste;
  - b. Lis Pendens;
  - c. Substitute title.
2. Division of Debts:
- i. Knowledge of: - Title/status of debts (with documentation);
    - a. Current balance;
    - b. Payment terms;
    - c. Credit reports;
    - d. Release of information;
    - e. Secured v. unsecured.<sup>5</sup>
  - ii. Allocation:
    - a. Determining what is premarital debt (joint debt acquired before the marriage and not divisible by the DR Court), what is marital debt and what is separate debt; what is marital debt and what is separate debt;
      - i. Burden of proof and documentation for separate debt;
      - ii. Interspousal debts;
      - iii. Promissory notes;
      - iv. Tax debt;
      - v. Debts owed to family;
      - vi. Increase or decrease in balance during marriage.
  - iii. Division of debt(s):
    - a. Refinancing;<sup>6</sup>
    - b. Indemnification language;
    - c. Enforcement language.
  - iv. Miscellaneous:
    - a. How to create spreadsheet required by many jurisdictions for property division;<sup>7</sup>
    - b. Understanding equitable division (equitable is not necessarily equal).

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<sup>5</sup> When parties are simultaneously involved in Bankruptcy and Domestic Relations proceedings, involvement of a licensed attorney may be necessary.

<sup>6</sup> If the marital estate may be insolvent, the LLP should direct the parties to consult with a bankruptcy attorney.

<sup>7</sup> Look at tools online at the Colorado Judicial website (currently Family Law Software).

## E. LEARNING AND COMPETENCY OUTCOMES

In addition to the general requirements above, LLPs practicing Family Law (Domestic Relations or DR) must demonstrate sufficient competency to provide legal advice and assist parties in accurately completing all relevant forms in the following areas:

1. Law applicable to all Family Law cases:
  - i. Domicile (C.R.S. § 14-10-106);
  - ii. Venue (C.R.C.P. Rule 98(c));
  - iii. Service of Process (C.R.S. § 14-10-107 AND C.R.C.P. Rule 4);
  - iv. Automatic Injunction (C.R.S. § 14-10-107);
  - v. Temporary Orders (C.R.S. § 14-10-108).
2. For cases involving minor child(ren):
  - i. Inclusion or Exclusion of Child(ren) in Dissolution Action (C.R.S. § 14-10-107);
  - ii. Filing a Separate Petition for the Allocation of Parental Responsibilities (C.R.S. § 14-10-123);
  - iii. Parentage Determination (C.R.S. § 14-10-123(1.8)/ C.R.S. § 19-4-101, et. seq.);
  - iv. Automatic Injunction Regarding Child(ren) (C.R.S. § 14-10-123);
  - v. Best Interest Factors Related to the Allocation of Parenting Time (C.R.S. § 14-10-124);
  - vi. Allocation of Decision-Making (C.R.S. § 14-10-124);
  - vii. Child And Family Investigator (C.R.S. § 14-10-116.5);
  - viii. Parental Responsibilities Evaluator (C.R.S. § 14-10-127);
  - ix. Parenting Coordinator (C.R.S. § 14-10-128.1);
  - x. Decision Maker (C.R.S. § 14-10-128.3);
  - xi. Child Legal Representative (C.R.S. § 14-10-116);
  - xii. Determination of Income (C.R.S. § 14-10-115);
    - a. Allowable Adjustments;
    - b. Allowable Expenses;
    - c. Deviation Standards.

3. Documents necessary for the filing of dissolution of marriage or civil union, legal separation, declaration of invalidity of marriage and/or allocation of parental responsibility:

- i. Petition for Dissolution of Marriage (C.R.S. § 14-10-107);
- ii. Petition for Dissolution of Civil Union (C.R.S. § 14-10-106.5);
- iii. Petition for Dissolution of Marriage Upon Affidavit (C.R.S. § 14-10-120.3);
- iv. Petition for Invalidity of Marriage (C.R.S. § 14-10-111);
- v. Petition for Legal Separation (C.R.S. § 14-10-107);
- vi. Petition for the Allocation of Parental Responsibilities (C.R.S. § 14-10-123);
- vii. Case Information Sheet;
- viii. Summons (C.R.S. § 14-10-107);
- ix. Sworn Financial Statement (C.R.C.P. Rule 16.2) and Certificate of Compliance;
- x. Proposed Allocation of Marital Estate;
- xi. Proposed Spousal Maintenance Award;
- xii. Proposed Parenting Time Plan;
- xiii. Proposed Child Support Worksheet;
- xiv. Joint Trial Management Certificate (C.R.C.P. RULE 16.2).

4. Disclosures/Discovery.

- i. Knowledge of the rules regarding initial disclosures (C.R.C.P. Rule 16.2) and pattern discovery (C.R.C.P. Rules 26 – 37, C.R.C.P. Rule 121, Appendix to C.R.C.P. Rule 121 – Forms 20 - 38); and
- ii. Knowledge of the discovery process, the rules governing the discovery process, and drafting and responding to pattern and non-pattern discovery requests, as allowed by the Court.

5. Modification of Orders:

- i. Modification of Spousal Maintenance (C.R.S. § 14-10-122),
- ii. Modification of Parenting Time (C.R.S. § 14-10-129);
- iii. Modification of Decision-Making (C.R.S. § 14-10-131);
- iv. Modification of Child Support (C.R.S. § 14-10-122).

6. Enforcement of Orders:
  - i. Parenting Time and Decision-Making (C.R.S. § 14-10-129.5);
  - ii. Contempt (C.R.C.P. Rule 107);
  - iii. Bonds, sureties, and life insurance provisions, orders or agreements (C.R.S. § 14-10-118);
  - iv. Verified Entry of Judgment for Spousal Maintenance and Child Support (C.R.S. § 14-10-122; C.R.C.P. Rule 69; and
  - v. Conveyance of Deeds or Documents (C.R.C.P. Rule 70).
  
7. Emergency Motions:
  - i. Restriction of Parenting Time (C.R.S. § 14-10-129(4));
  - ii. Uniform Child Abduction Prevention Act (C.R.S. § 14-13.5-101 et. seq.); and
  - iii. Protection Orders (C.R.S. § 13-14-101 et. seq.).
  
8. Other matters that may or may not be adjunct to the LLP practice (See RULES GOVERNING THE ADMISSION TO THE PRACTICE OF LAW IN COLORADO, Rule 207.1 (2):
  - i. Stipulated Case Management Plan (C.R.C.P. Rule 16.2); **(74)**
  - ii. Verified Pleading Affidavit for Grandparent or Great-Grandparent Visitation (C.R.S. § 19-1-117); (REPEALED AND RELOCATED. See instead C.R.S. § 14-10-124.4, 14-10-124.5, 14-10-123.3.
  - iii. Motion to Intervene (C.R.C.P. Rule 24);
  - iv. Determination of parentage (C.R.S. §19-4-101 et.seq.);
  - v. Name change for minor child (C.R.S. §13-15-101 et. seq.);
  - vi. Garnishment for Support (C.R.S. §13-54-101 et. seq.); and
  - vii. Income Assignments (C.R.S. §14-14-111.5).

## F. LEARNING AND COMPETENCY OUTCOMES - Rules and Laws Governing

Alternative Dispute Resolution.<sup>28</sup> In addition to the general requirements above, LLPs practicing Family Law (Domestic Relations or DR) must be prepared to assist parties in Alternative Dispute Resolution (mediation and arbitration) with knowledge of:

- i. The Colorado Dispute Resolution Act (“CDRA”) C.R.S. § 13-22-301 et. seq.;
  - a. CDRA’s strict confidentiality provisions and exceptions (C.R.S. § 13-22-302 (2.5));
  - b. CDRA Colorado Rules of Civil Procedure: Rule 16(b)(7), 16.1(f), 16.2(i) (confirm settlement discussions/alternate dispute resolution).
- ii. Case law (*Yaekle v. Andrews*, 195 P.3d 1101, 1110 (Colo. 2008));
- iii. Colorado Rule of Evidence 408 (compromise and offers to compromise);
- iv. Court ordered v. voluntary mediation;
- v. Bases for opting-out of mediation:
  - a. Domestic Violence;
  - b. Case inappropriate for mediation;
- vi. Sanctions for failure to comply.

#### G. LEARNING AND COMPETENCY OUTCOMES – Associated Concepts of Law.

To the extent they have not learned them in connection with the substantive areas of knowledge identified above, LLPs must understand the meaning and significance of the following general legal principles, as necessary to understand and apply the relevant rules governing LLP practice, and as necessary to prepare their clients for court hearings:

1. Rules governing the use of interactive audiovisual devices and communication technology in court proceedings (C.R.S. § 13-1-132);
2. Default judgments (C.R.C.P. Rule 55; *In re Marriage of Vega* 2021 COA 99.)
3. The implications of related civil and criminal proceedings, i.e., burdens of proof, Fifth Amendment rights, adverse inferences, etc.;<sup>9</sup>

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<sup>8</sup> Mediation Guide for Colorado Courts (coloradoodr.org).

<sup>9</sup> When parties are simultaneously involved in criminal and Domestic Relations proceedings, involvement of a licensed attorney may be required.



4. Deadlines for exercising legal rights, whether by statute or rule, including:
  - i. Procedures for and standards of appellate review (Colorado Rules of Appellate Procedures Rules 25 – 46);
  - ii. Procedures for and standards of magistrate review (Colorado Rules for Magistrates Rule 7);
  - iii. Procedures for enforcement of judgments (C.R.C.P. Rules 54 – 60; C.R.S. § 14-14-111.5; C.R.S. § 13-54-101 et.seq.; C.R.S. § 13-54.5-101; C.R.S. § 13-56-101 et. seq.);
5. Principles of equity, including laches, estoppel, and irreparable harm;
6. Definition and recognition of trusts sufficient to exclude from LLP practice;
7. The concept and elements of fraud, conversion, and embezzlement;
8. The recognition and importance of bonds, sureties, insurance and subrogation provisions or agreements;
9. Liens;
10. Evidentiary principles (Generally, C.R.S. § 13-25-101 et.seq.):
  - i. The difference between objective and subjective knowledge or beliefs ;
  - ii. The difference between fact and inference;
  - iii. The concepts of relevance and materiality;
  - iv. The rules of evidence that apply in hearings.

*Learning and Competency Outcomes for Ethics Exam:*

H. Rules Governing Licensed Legal Paraprofessionals.

The LLPs must understand the rules governing LLPs (Licensed Legal Paraprofessional Rules of Professional Conduct, RULES GOVERNING THE ADMISSION TO THE PRACTICE OF LAW IN COLORADO 207 – 207.14, and other rules changes currently being drafted by the various Colorado Supreme Court Rules Committees):

1. Principles of LLP ethics, professionalism, and civility. Although LLPs should be familiar with all aspects of the above rules, the mandatory ethics training program should

ensure that LLPs understand the following major concepts regarding the ethical aspects of practice and client representation:

- a. The standards of care and other duties LLPs must exercise on behalf of their clients;
- b. The difference between rules, comments, and ethics opinions regarding rules of ethics governing LLPs;
- c. The nature of the LLP-client relationship:
  - i. The LLP's obligation when a client needs or requests representation;
  - ii. When the LLP-client relationship is created;
  - iii. The manner in which it may be declined or terminated;
  - iv. The limits of the LLP licensure and role;
  - v. The duty to inform the client that the LLP is not an attorney;
  - vi. The LLP's duty of reasonable consultation and communication with clients;
  - vii. The concept of and importance of informed consent;
  - viii. The concept and importance of client confidentiality and privilege, and when confidentiality can or should be breached;
  - ix. The permissible and appropriate fee arrangements LLPs can enter with clients; and
  - x. LLP duties regarding client funds and other property held by the LLP on behalf of the client. The nature of business relationships within which LLPs may practice, and the constraints associated with those relationships.
- d. Other ethical considerations:
  - i. The meaning and implications of various disciplinary sanctions and how they affect the ability to practice as an LLP, including disbarment, suspension, interim suspension, Public Censure, Private Admonition, and Diversion;
  - ii. The concept of conflict of interest, what constitutes a conflict, and the appropriate steps to prevent or mitigate any conflicts;
  - iii. The principle that LLPs are officers of the legal system and have duties and responsibilities to the system of justice as well as their clients, including the duty of candor to courts, honesty and fairness, and the duty to avoid frivolous or otherwise nonmeritorious claims or arguments;

- iv. Appropriate and inappropriate communications and means of communicating with or influencing judicial officers and court personnel, including *ex parte* communications;
- v. The concept and limits of “zealous” advocacy on behalf of clients, and the responsibility to balance that role against principles of justice, professionalism, and civility to opposing parties and counsel;
  - a. In a matter involving or expected to involve litigation, an LLP should advise the client of alternative forms of dispute resolution that might reasonably be pursued to attempt to resolve the legal dispute or to reach the legal objective sought; and
  - b. In a matter involving the allocation of parental rights and responsibilities, an LLP should consider advising the client that parental conflict can have a significant adverse effect on minor child(ren).
- e. The principles governing and limiting communications with other represented and unrepresented individuals.
  - i. The importance of *pro bono* representation and the LLP’s participation in other measures to improve access to justice for under-represented parties;
  - ii. The principles and rules governing and limiting advertising and other measures to obtain clients, including appropriate information about the nature, scope, and limitations of the LLP’s practice, including the approved areas of practice;
  - iii. The importance of negotiating settlement agreements fairly and representing the agreement fairly and accurately in reducing settlement negotiations to writing;
  - iv. The ethical obligations of the LLP when a client wants the LLP to do something unethical or illegal; and
  - v. The nature of the LLP’s duties to former clients.