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The Inclusive OFFICE

Lawyers must do their homework on diversity

Our community's children are back in classrooms, and now lawyers must also go back to school — to learn cultural competence and cultural humility. We must go beyond our bi-annual CLE requirements and do our homework so we can most effectively work with others. Cultural competence is the ability to understand, communicate with and effectively interact with people across cultures. Cultural humility is the acknowledgement that we all have internal biases based on our lived experiences, as well as the commitment to educating ourselves about other cultures and listening to and learning from others' lived experiences. Cultural competence and humility are so inseparable that scholars are beginning to refer to them collectively as cultural competemility, and so will I.

The New York State CLE Board recently assigned attorneys an introductory course in cultural competemility, specifically a mandatory 1 credit in "Diversity, Inclusion and Elimination of Bias." Per 22 NYCRR 1500.2(g), CLEs in this category "include, among other things, implicit and explicit bias, equal access to justice, serving a diverse population, diversity and inclusion initiatives in the legal profession, and sensitivity to cultural and other differences when interacting with members of the public, judges, jurors, litigants, attorneys and court personnel." This regulation contains buzzwords and loaded terms, but reading between the lines, the true purpose of this regulation is clear: It is a lawyer's ethical obligation to anticipate and prepare for cultural differences among our increasingly diverse clientele and profession.



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and 4% Asian. But these numbers are just the first sentence in a larger story, which shows that the only population growth is among people of color. According to ACT Rochester, between 2000 and 2017, the white population decreased 2% overall, while other racial and ethnic populations have grown. The Hispanic population grew 64%, the Asian population grew 56%, and the African American population grew 14%.

The case for committing to cultural competemility is clear and, fortunately, so is the required curriculum. To achieve cultural competemility, we must do the following: (1) gain an awareness of our own culture, world view and lived experiences; (2) learn about different cultures, world views and lived experiences; and (3) develop skills for speaking and interacting across cultural differences. Many people believe that cultural competemility can be achieved all at once (for example, after a single CLE), but the

In addition to being an ethical mandate, matriculating in a path to learn cultural competemility are crucial for Monroe County lawyers as racial and ethnic diversity in our area is increasing steadily. According to census data from July 2018, Monroe County is 70% white, 16% black, 9% Hispanic,

steps to cultural competemility are lifelong endeavors. The truth of the need for lifelong learning has borne out again and again. For example, white people have been told to refer to a black person as "African-American." However, not all black people are African-Americans and all African-Americans are not black. Black people can be African-American or Caribbean-American or African or Central American ... or or or. (So, how do you refer to a black person? First, ask yourself if you must you refer to their skin color? Why? If you absolutely have to, you can say that they are black or a person of color).

So, the first step to practicing cultural competemility is gaining an awareness of our own culture, world view and lived experiences. Basically, acknowledge your privilege! Privilege can manifest in any number of your identities: race, gender, sexual orientation, education, physical ability, financial status, etc. You aren't required to feel guilt over your identities, but you need to be aware of them externally in your interactions with others and internally when learning about other cultures, world views and lived experiences.

You can educate yourself in a variety of ways. Read "My 'Word of 2014': Privilege" by Dr. Barbara J. King on NPR, and then read the pieces she quotes or cites therein. Complete the "White Privilege: Unpacking the Invisible Knapsack" exercise by Dr. Peggy McIntosh. Dr. McIntosh leads white people through a list of 50 ways white privilege informs (and eases) our lives every single day. Visit Harvard University's Project Implicit at implicit.harvard.edu to take one or

more Implicit Association Tests (IATs). According to the website, an IAT “measures the strength of associations between concepts (e.g., black people, gay people) and evaluations (e.g., good, bad) or stereotypes (e.g., athletic, clumsy).” You may discover personal identities that don’t bestow privilege. Be honest about how this may have created difficulties for you or caused you harm. Find “Your American Dream Score” at movingupusa.com, which “takes you through the various factors th[at] impact where we end up in life” to determine what factors may have contributed to your success or created barriers to it.

The second step is learning about different cultures, world views and lived experiences. Take more than the mandated one-hour CLE. A variety of community organizations, such as 540WMain Community or the Louis S. Wolk Jewish Community Center of Rochester, offer educational programs about the diverse communities in the greater Monroe County Area. A great number of these agencies also present to outside groups, so ask management about arranging such presentations. If you’re organizing a CLE, bring in new presenters representing a broader set of lived experiences. If you’re asked to participate on a CLE panel, ask about the rest of the panel — is there gender or racial diversity? Recommend a colleague of a different race or gender in your stead.

Consume diverse content. Read books

and watch shows telling stories written by people who’ve had the same lived experiences as their characters. Read Toni Morrison, Ady Barkan and Ta-Nehisi Coates. Watch “Tales of the City” by Armistead Maupin and “A Black Lady Sketch Show” by Robin Thede. Google the top 10 books or movies or TV shows by Black, queer, Latinx, Muslim or female writers. Subscribe to podcasts with Black, queer, Latinx, Muslim or female hosts. Find content created by people with different lived experiences with you. We are all stressed for time, but we can replace easily our usual content with more diverse offerings. You don’t need to make new time to dedicate to this, though of course feel free to do so.

The third step is developing skills for speaking and interacting across cultural differences. This final step may be uncomfortable for us because it’s counterintuitive — mastering cultural competency means accepting our own limitations and learning to listen to others. You have to get comfortable with being uncomfortable. Your clients are the experts of their own lives. If you don’t know something, ask. Asking them about how a specific identity may impact their perceptions of their case is OK. Asking them how they prefer to be identified regarding their gender expression or racial identity is OK. Asking them their pronouns is OK (and should be standard practice). These questions must be asked respectfully, of course.

Ultimately, the purpose of these questions is to help you better help your client. If you make a mistake, apologize, move on and correct going forward. If you get called out for saying or doing something biased, don’t get defensive (even if it wasn’t intentional; implicit/unconscious bias is called that for a reason); rather, apologize and re-examine the situation later to identify your mistake. If necessary, find resources to educate yourself.

For extra credit, share what you learned with your friends and colleagues. Like any other skill, speaking and interacting across cultural differences only improves with practice; you’re going to be uncomfortable and you’re going to make mistakes, but that’s part of the process when you acknowledge your mistake’s impact (and don’t get defensive because of the intent) and learn from it.

At the end of the day, the scholars who first coined the phrase “cultural humility,” Dr. Melanie Tervalon and Dr. Jann Murray-Garcia, said it best: Cultural competency “is about accepting our limitations” and must include “work to increase [our] self-awareness of [our] own biases and perceptions and engage in a life-long self-reflection process about how to put these aside and learn from clients.”

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