

## Standard 2.4 on Cultural Competence

# STANDARD 2.4 ON CULTURAL COMPETENCE

### STANDARD

*A provider should ensure that its staff has the skills, knowledge and resources necessary to provide assistance in a culturally competent manner.*

### COMMENTARY

#### General considerations

Each legal aid provider has a fundamental responsibility to establish a relationship of confidence and trust with the clients whom it represents and to understand and respond to the needs of all of the low income communities that it serves, including those that are culturally and linguistically diverse. There are many factors that can impede a provider meeting those fundamental responsibilities, including physical and institutional barriers to access, clients' personal conditions and circumstances and cultural and linguistic differences. This Standard and commentary address the specific responsibility for the provider to reach across cultural lines and to overcome the impediments to effective representation that might arise because of cultural differences. Other Standards address providers' responsibilities associated with overcoming barriers to access,<sup>1</sup> establishing an effective relationship with clients, including those with challenging personal circumstances or conditions,<sup>2</sup> and communicating in the client's primary language.<sup>3</sup>

To be culturally competent in legal aid means having the capacity to provide effective legal assistance that is grounded in an awareness of and sensitivity to the diverse cultures in the provider's service area. A cultural group is identified by shared beliefs, values, customs and behaviors that define what it is. Cultural competence is particularly important with racially, ethnically and culturally distinct communities, and with persons who primarily use a language other than English. Cultural competence is also important with persons with disabilities for whom there are barriers to communication that might impede the formation of a relationship of trust necessary for effective representation, and with others who share distinct characteristics that call for heightened awareness and sensitivity.

The shared beliefs, values and customs that define a cultural group often have a subtle, but deeply significant impact on communication with the provider, on how the attorney-client relationship is formed and on the conduct of the representation. It is important to recognize different cultural norms and provide assistance in a non-judgmental way that honors and respects those values. Cultural competence involves more than having the capacity to communicate in

---

<sup>1</sup> See ABA Standards for the Provision of Civil Legal Aid (2006), Standard 4.5 (on Access to Services).

<sup>2</sup> See ABA Standards for the Provision of Civil Legal Aid (2006), Standard 7.1 (on Establishing an Effective Relationship and a Clear Understanding with the Client).

<sup>3</sup> See ABA Standards for the Provision of Civil Legal Aid (2006), Standard 4.6 (on Communication in the Primary Languages of Persons Served).

## **Standard 2.4 on Cultural Competence**

the language of persons from each community and involves more than an absence of bias or discrimination. It means having the capacity to interact effectively and to understand how the cultural mores and the circumstance of persons from diverse communities affect their interaction with the provider and its practitioners and govern their reaction to their legal problems and to the process for resolving them.

A lack of cultural competence may result in miscommunication and misunderstanding between a provider and client, undermining the attorney-client relationship and defeating the client's objective. Moreover, it may deter others in the client's community from seeking assistance, if a failure of communication or – to the client – inappropriate response is reported back to the affected community through its informal channels.

An essential component of cultural competence is recognizing and resisting the temptation to stereotype individual members of the cultural group. All clients, regardless of cultural or linguistic identity or background, should be treated with respect.

### **Provider responsibilities with regard to cultural competence**

A legal aid provider should demonstrate cultural competence in its operations and should have a culturally competent and a diverse staff so that all groups of clients will be welcomed and well represented. Offering culturally competent legal services implicates how representation is conducted. It also involves how the provider operates, including how it hires and trains its staff. Finally, it calls for the provider periodically to assess the utilization of its services by the distinctive communities in its service area and the effectiveness of the services provided to persons from those communities.

### **The impact of cultural competence on representation of clients**

A provider needs to be aware of how the cultural values of its clients can affect their representation. A number of areas in which cultural competence is important are discussed in Standards related to individual representation<sup>4</sup> and the provider's responsibilities regarding various forms of representation.<sup>5</sup>

Generally, effective representation depends on a practitioner's capacity to form a trusting relationship with the client and to understand the intended meaning of the client's words, behavior and expressions. Subtle gestures that might have little meaning to a practitioner may have great significance to the client. For instance, it is considered insulting in some cultures to touch a person's head or to point one's feet at another. Or, for example, some cultures consider it impolite to have eye contact with someone who is older or someone who is considered a superior.

Cross-cultural understanding should help the practitioner communicate more effectively in order to establish trust and to understand the client's objectives. An underlying premise of all

---

<sup>4</sup> See ABA Standards for the Provision of Civil Legal Aid (2006), Section 7.

<sup>5</sup> See ABA Standards for the Provision of Civil Legal Aid (2006), Section 3.

## Standard 2.4 on Cultural Competence

representation is that the client sets the objective.<sup>6</sup> In explaining alternatives and their potential consequences,<sup>7</sup> a practitioner may be called upon to accept a decision by a client that in the practitioner's value system seems imprudent. It is important for practitioners to listen carefully to their clients' stated objective and not to insist on outcomes that reflect the practitioner's – not the client's – judgment of what constitutes success in a case.

It is also important that the practitioner be aware of how cultural values can affect a client's reaction to conflict. A cultural value to avoid conflict, for example, can significantly affect how a case proceeds as well as the communication between the client and practitioner. In many cultures, there is a strong value of not directly disagreeing with others in conversation or only indirectly addressing sensitive matters. A practitioner who is unaware of such a value may not be able easily to discern the client's actual desired objective, if the client, out of a sense of propriety, simply agrees with what the practitioner says about possible outcomes to the case. Some cultures also place a very high value on informal means of conflict resolution and may find the adversarial system to be alien and even offensive.

The difference between collective and individualistic cultures can also affect who the client feels should be involved in decisions about a legal problem. For example, in some cultures, clients may expect their parents to play an important role in deciding what should happen in a custody case. What the practitioners might see as inappropriate control, the client might see as necessary, respectful behavior. In such circumstances, the practitioner should find a culturally appropriate way to avoid any detrimental impact on the confidentiality of communications with the client, which may be impaired if third parties, such as parents are present.

Practitioners need to recognize when an appropriate level of trust and confidence has not been established with a client and how the practitioner may have contributed to misunderstanding. The practitioner may in such circumstances need to reach out to others to have a frank conversation about how cultural differences may have played a part. Staff should feel comfortable seeking such advice in order to create a productive multi-cultural workplace and a better understanding of clients.

A practitioner's ability to present clients' cases to adversaries, agency personnel, hearing officers and judges is enhanced when a practitioner is knowledgeable about and attentive to possible cross-cultural misunderstandings. To be an effective advocate for a client, the practitioner is called upon to present the client's reality in a convincing way in the legal process. It may also involve being a bridge to explain to the client the requirements of the legal system that may seem strange or threatening. For example, a client's reluctance to participate in counseling that is ordered by a court may occur where language or cultural issues make communication with a therapist difficult or where there is a cultural mistrust or rejection of therapists. Understanding the client's resistance, the practitioner may seek to create a culturally friendly alternative that satisfies the court.

---

<sup>6</sup> See ABA Standards for the Provision of Civil Legal Aid (2006): Standard 7.1 (on Establishing an Effective Relationship and a Clear Understanding with the Client); Standard 4.2 (on Establishing a Clear Understanding).

<sup>7</sup> See ABA Standards for the Provision of Civil Legal Aid (2006), Standard 7.8 (on Legal Counseling).

## Standard 2.4 on Cultural Competence

### Provider operation

A provider should function in ways that convey its openness to the cultural diversity in its service area and its competence responding to that diversity. To the degree possible, its staff should reflect the diversity of the population that it serves. The provider should have delivery strategies that respond to cultural factors that impede some populations from seeking and effectively utilizing the services offered. It should have a staff that is well trained in the skills and insight necessary to serve its diverse populations.

***Diversity of the staff and board.*** The legal aid provider should ensure that its staff and board are both diverse and capable of relating to clients who are from a culture different than their own.<sup>8</sup> Having a visibly diverse workforce and board conveys to potential clients that the provider understands and is open to people from different backgrounds.

While hiring and retaining racially, ethnically and linguistically diverse staff is an important component of a welcoming environment for diverse client populations, such diversity does not necessarily ensure cultural competence. Differences in geography, education, immigration status, country of origin, and family background are other cultural differences that may create cross-cultural communication challenges despite other demographic similarities. Hiring people who are from the actual community being served is one way to equip the provider with deeply ingrained cultural knowledge and language skills important to that client population.

For practical reasons, providers serving very diverse populations with many sub-groups will not be able to hire staff from all such groups. Often, there will not be enough staff positions to accommodate every sub-group. Some groups, such as newly arrived immigrants, may not have many members with the skills needed by the provider. Providers should consider different staffing patterns, such as employing community outreach workers from culturally isolated communities in order to establish a presence with those communities and to support persons from them who do seek help.

***Training of staff and board.*** Training is a vital element of a provider's efforts to function in a culturally competent fashion and to have staff who are able to serve a diverse low income population effectively. Because the Board of Directors adopts policies which will affect the capacity of the provider to operate in a culturally competent manner, it should also receive appropriate training in important features of a culturally competent organization. Training should be planned and taught by a diverse range of trainers and should introduce culture-specific knowledge in the context of the communities that the provider serves and in legal issues particular to each of the communities.

Given its limited resources, a provider's efforts to assure cultural competence among its staff should first focus on training about cultural awareness and the basic skills to be more culturally competent. General cross-cultural competence involves understanding that the decisions that a practitioner makes during representation are shaped by the practitioner's own culture as well as the legal culture. Training should offer advocates an opportunity to gain insights into their own

---

<sup>8</sup> See ABA Standards for the Provision of Civil Legal Aid (2006): Standard 2.5 (on Staff Diversity); Standard 1.2 (on Governing Body Members' Responsiveness to the Communities Served).

## Standard 2.4 on Cultural Competence

cultural norms and values as well as to develop cultural-general and cultural-specific information about the various low income communities served by the provider. Staff should also be trained to understand that shared norms are expressed in a variety of ways within each culture and that it is important that knowledge about a culture's values and norms not lead to stereotyping individuals from that culture.

Culture-specific training efforts should be prioritized according to the size of a particular cultural community, or group of communities. Programs that serve a large range of cultures should assess the size and legal needs of particular cultural communities within the low income population in order to prioritize the training and services it offers. The provider should offer staff and board tools such as web-based and written materials regarding the cultures in its service area.

In addition, providers should train staff in the skills and perspectives needed to work cross-culturally. Providers should offer advocates training in cross-cultural communication skills, such as the ability to focus deeply on content, to read verbal and non-verbal behavior and to adapt to differing conversational and behavioral styles. What communication style and gestures are appropriate, for instance, may vary depending on culture. For example, nodding in some cultures means, "yes," while in others it means, "I'm listening." Clients from a culture with a direct communication style are more likely to respond to direct questioning than those whose cultural norm is to communicate indirectly.

Staff should also be trained in the importance of non-verbal communication signals, visual aids, gestures and physical prompts that will make interactions with clients more culturally appropriate. Staff should know how to communicate respect in the culture. In some cultures, for example, a handshake is appropriate, while in others it is not.

***Access and outreach.*** The provider should strive to make its services accessible to all the populations that it serves. Issues associated with physical access for persons with disabilities and isolated populations are addressed in the Standard on client access.<sup>9</sup> Providers should take steps to address cultural isolation that may limit utilization of its services by some populations in its service area and should undertake sustained outreach to culturally isolated or culturally independent communities in its service area.

Effective outreach requires building respectful relationships with community-based organizations that serve culturally diverse client communities. For example, the well developed network in Mandarin and Cantonese-speaking communities is essential to (and a ready source of help in) reaching out to those communities. Some cultures with a strong patriarchal tradition look to elder males in the community to resolve problems informally and so outreach may need to be conducted through patriarchs to whom the community goes for guidance.

Strong relationships with community-based organizations can also help providers better serve small minority groups not currently represented among program staff. Such organizations can also be the source of culture-specific information and valuable community contacts. Providers

---

<sup>9</sup> See ABA Standards for the Provision of Civil Legal Aid (2006), Standard 4.5 (on Access to Services).

## Standard 2.4 on Cultural Competence

should institutionalize their culture-specific information by including it as part of general orientation or training in specific substantive law areas.

Providers should also strive to provide legal information and community legal education through media that are accessible to diverse communities, including persons with disabilities and persons who speak a language other than English. Information should be offered in the major written languages of the various communities that a provider serves. Some cultures have written languages that are known primarily to scholars and are not widely used by members of the community. To the extent practical, the provider should try to use audio and video to convey legal information to members of such cultural groups.<sup>10</sup>

A provider should strive to make legal information offered on websites accessible to the various populations that it serves. There may be subtle cultural sensitivities to the format and colors used on a website and different cultures will have varying receptivity to modern technology. The provider should seek to be aware of such issues and if practicable should design its website to be useful to the predominant cultures in its service area. Information should be available in the major written languages spoken among the communities the provider serves.

Websites should be accessible to persons who have a disability that may limit their ability to make use of the information provided. Sites should display graphic and visual information with a text alternative in formats accessible to screen readers for people who are blind and be coded to allow for keyboard-only navigation for persons unable to use a mouse. Providers should be aware of potential accessibility problems with complex websites that use multimedia applications that rely on sound, visual display and a high level of interactivity with the user.

***Provider appearance.*** There are many small, but important details that convey a multi-cultural environment to persons contacting a provider. The provider's physical environment, staff dress, materials and resources on display for clients should reflect respect for the cultures and ethnic backgrounds of the clients served by the provider. This could include signage, printed materials, toys and other play accessories in the reception areas. Signage should show that different languages and American Sign Language are available. Intake forms should provide options that recognize alternative family structures, including domestic partners.

***Acquisition and institutionalization of cross-cultural knowledge.*** It is important to note that developing and maintaining cultural competence is an ongoing process. The many communities in a provider's service area change and the provider needs to be aware of such changes and adjust to them. Providers serving communities with many culturally distinct communities will not be able immediately to develop equal competence with each. It should concentrate first on the largest communities in its service area, while striving to develop cultural fluency appropriate to all. Successful interaction with isolated communities will continuously increase the knowledge and insight into those communities and allow for a deepening understanding of how best to serve them. The provider should develop ways to record that developing body of insight and make it available to new staff as they join the organization.

---

<sup>10</sup> See ABA Standards for the Provision of Civil Legal Aid (2006), Standard 4.6 (on Communication in the Primary Languages of Persons Served).

## Standard 2.4 on Cultural Competence

### Evaluation

It is important for a provider periodically to assess the degree to which it is successfully reaching out to and serving its diverse communities. It should examine rates of utilization of all of its services by the diverse populations in its service area in comparison to their percentage in the overall low income population. It should also assess the degree to which it has been effective in providing services, including seeking comments and feedback from leaders and others in the affected populations.<sup>11</sup>

---

<sup>11</sup> See ABA Standards for the Provision of Civil Legal Aid (2006), Standard 2.11 (on Provider Evaluation).