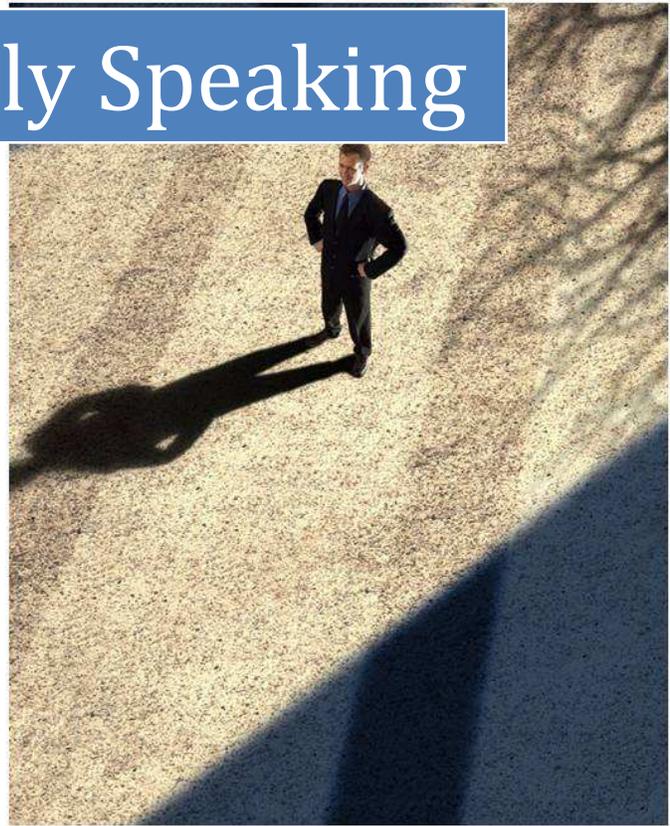


2012

Professionally Speaking

Practical resources and tools to accelerate your success from the start!

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Washington State Bar Association

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Professionally Speaking

Oath of Attorney of Washington State

A step in your admission to the practice of law in Washington.

Oath of Attorney of Washington State

State of Washington,
 County of _____
 I, _____, do solemnly declare:

1. I am fully subject to the laws of the State of Washington and the laws of the United States and will abide by the same.
2. I will support the constitution of the State of Washington and the constitution of the United States.
3. I will abide by the Rules of Professional Conduct approved by the Supreme Court of the State of Washington.
4. I will maintain the respect due to the courts of justice and judicial officers.
5. I will not counsel, or maintain any suit, or proceeding, which shall appear to me to be unjust, or any defense except as I believe to be honestly debatable under the law, unless it is in defense of a person charged with a public offense. I will employ for the purpose of maintaining the causes confided to me only those means consistent with truth and honor. I will never seek to mislead the judge or jury by any artifice or false statement.
6. I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with the business of my client unless this compensation is from or with the knowledge and approval of the client or with the approval of the court.
7. I will abstain from all offensive personalities, and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged.
8. I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay unjustly the cause of any person.

 (Signature)

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20__.

 Judge

Learn More

In this program...	See other topics in this section.
At the Bar...	Instructions on How to take the Oath of Attorney are also available by searching on wsba.org for "Oath of Attorney"
On the web...	Professionalism, Oath of Attorney, Post-Exam Admission Requirements, Preadmission



What are the values of the legal profession?

Value 1. Provision of Competent Representation¹

As a member of a profession dedicated to the service of clients, a lawyer should be committed to the values of:

1. Attaining a level of competence in one's own field of practice
2. Maintaining a level of competence in one's own field of practice
3. Representing clients in a competent manner

Value 2. Striving to Promote Justice, Fairness, and Morality

As a member of a profession that bears special responsibilities for the quality of justice a lawyer should be committed to the values of:

1. Promoting justice, fairness, and morality in one's own daily practice
2. Contributing to the profession's fulfillment of its responsibility to ensure that adequate legal services are provided to those who cannot afford to pay for them
3. Contributing to the profession's fulfillment of its responsibility to enhance the capacity of law and legal institutions to do justice

Value 3. Striving to Improve the Profession

As a member of a self-government profession, a lawyer should be committed to the values of:

1. Participating in activities designed to improve the profession
2. Assisting in the training and preparation of new lawyers
3. Striving to rid the profession of bias based on race, religion, ethnic origin, gender, sexual orientation, or disability, and to rectify the effects of these biases

Value 4. Professional Self-Development

As a member of a learned profession, a lawyer should be committed to the values of:

1. Seeking out and taking advantage of opportunities to increase his or her knowledge and improve his or her skills
2. Selecting and maintaining employment that will allow the lawyer to develop as a professional and to pursue his or her professional and personal goals.

Learn More

In this program...	See other topics in this section.
At the Bar...	WSBA Mission Statement also available by searching on wsba.org for "Governance"
On the web...	Professionalism, Preadmission

¹ American Bar Association. *Overview of Fundamental Lawyering Skills and Values*, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT - AN EDUCATION CONTINUUM [MacCrate Report] pp. 138-141 (Chicago: ABA, 1992).



Professionally Speaking

What does professionalism mean to you?

Professionalism has been a focus for many bar associations throughout the nation for several years. Unprofessional or discourteous conduct exhibited by some lawyers is not limited to new lawyers or old lawyers, but permeates all levels of experience. Lawyers who engage in unprofessional and discourteous conduct impede the administration of justice and cause the public reputation of the legal profession to suffer.

The American Bar Association, the Washington State Bar Association, and local jurisdictions throughout Washington State, among other jurisdictions, have adopted professionalism or courtesy guidelines to emphasize the concern for civility that goes well beyond the ethical conduct contemplated by the rules of professional conduct.

Part of the oath taken by every practicing attorney in the State of Washington includes the following language: "I will abstain from all offensive personalities, and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged."

Standards of professional conduct are NOT always established by customary and accepted practices within the state and county bar associations. The Washington Supreme Court has cautioned lawyers that conducting oneself in accordance with customary and accepted practices is not a proper standard of behavior. Rather, conduct is to be measured against the spirit and purpose of the rules, not against the standard of practice of the local bar. *Washington State Physicians Insurance Exchange & Ass'n v. Fisons Corp.*, 122 Wn. 2d 299, 858 P.2d 1054 (1993).

Some circumstances can signal that an accepted practice in a legal community is not a proper standard of behavior under the code of professional responsibility. A general decline in professionalism may result from broad changes in how one practices law. For example:

- A large population of attorneys can become impersonal. The legal community may experience less collegiality and less frequent personal contact. You may notice this if you practice in a less populated rural county and later move to a highly populated county, or vice versa.
- A large population of attorneys can result in fewer opportunities or incentives to network and build relationships between attorneys.
- Large firms that emphasize billable hours may give less attention than in the past to training new attorneys in ethics, professionalism, and civility.
- Solo practitioners comprise approximately 60% of the lawyers in Washington State and have little opportunity to identify and rely on the expertise of a mentor.
- Public expectations that legal issues are resolved through litigation with less emphasis on avoiding conflict can raise the level of uncivil and unprofessional conduct.
- Greater competition for clients may encourage aggressive behavior intended to impress a client with "hardball" tactics, even though such tactics may not lead to better results for the client. When the case is over, the client moves on with his or her life; however, the attorney keeps the



reputation of being unreasonable and unprofessional, thereby attracting more of the same type of high-conflict clients.

- Widespread stress and increasingly fast technological changes and demands contribute to the tendency toward uncivil conduct.

On the other hand, unprofessional conduct can be, quite simply, a lack of good manners. The lawyer who fails to act with courtesy and good will toward his colleagues establishes his own reputation as unprofessional and uncooperative. Unfortunately, consequences of unprofessional conduct go beyond the individual lawyer's reputation.

Results of unprofessional conduct include:

- increased costs of professional services and court costs
- waste of judicial resources caused by lack of cooperation and candor
- reduction of opportunities to advance a client's legitimate interests
- diminished public image of lawyers as a profession
- skepticism of the self-regulatory nature of the legal profession

Some recommendations to raise the level of professionalism that you can adopt are:

- Seek out an experienced practitioner to be your mentor.
- Get involved in your local bar association and connect with your colleagues socially.
- Communicate clearly to staff and clients your expectations of civility and professionalism.
- Do not rely upon the threat of sanctions in reaction to difficulties with other lawyers.
- Be prompt in responding to calls, emails, and correspondence from your clients and other counsel.
- Grant favors and courtesies to opposing counsel – it costs nothing and builds trust.
- Be dignified and honorable – in the discovery process, in court, in marketing, in negotiations, on the phone, and so forth.
- Remember that differences may be generational and require a change of perspective.

Professional conduct will make the practice of law more enjoyable and improve the image of the legal profession in the public eye.

Learn More

In this program...	WSBA Creed of Professionalism, Oath of Attorney, MCLE Guidelines, Fundamental Principles of Professional Conduct
At the Bar...	Professionalism Committee can also be found on wsba.org at Legal Community > Committees, Boards, and Other Groups > Professionalism Committee
On the web...	Professionalism, Civility, Creed, Preadmission



Professionally Speaking

What does being an attorney mean to you?

The Rules of Professional Conduct provide guidance to lawyers on minimum ethical standards that will keep a lawyer out of trouble with the WSBA Office of Disciplinary Counsel. Professionalism, on the other hand, is something other than compliance with rules of ethical conduct. The Fundamental Principles of Professional Conduct, preceding the RPCs, appeal to a higher standard.

The Fundamental Principles of Professional Conduct²

The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government. Law so grounded makes justice possible, for only through such law does the dignity of the individual attain respect and protection. Without it, individual rights become subject to unrestrained power, respect for law is destroyed, and rational self-government is impossible.

Lawyers, as guardians of the law, play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship with and function in our legal system. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct.

In fulfilling professional responsibilities, a lawyer necessarily assumes various roles that require the performance of many difficult tasks. Not every situation which a lawyer may encounter can be foreseen, but fundamental ethical principles are always present as guidelines. Within the framework of these principles, a lawyer must with courage and foresight be able and ready to shape the body of the law to the ever-changing relationships of society.

The Rules of Professional Conduct point the way to the aspiring lawyer and provide standards by which to judge the transgressor. Each lawyer must find within his or her own conscience the touchstone against which to test the extent to which his or her actions should rise above minimum standards. But in the last analysis it is the desire for the respect and confidence of the members of the legal profession and the society which the lawyer serves that should provide to a lawyer the incentive for the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction. So long as its practitioners are guided by these principles, the law will continue to be a noble profession. This is its greatness and its strength, which permit of no compromise.

Learn More

In this program...	Oath of Attorney, WSBA Creed of Professionalism
At the Bar ...	Office of Disciplinary Counsel (ODC) can also be found on wsba.org at Licensing & Lawyer Conduct > Discipline > Office of Disciplinary Counsel
On the web...	Rules of Professional Conduct: www.courts.wa.gov Professionalism, Civility, Preadmission

² Washington State Court Rules, Fundamental Principles of Professional Conduct, www.courts.wa.gov



WSBA Creed of Professionalism

As a proud member of the legal profession practicing in the state of Washington, I endorse the following principles of civil professional conduct, intended to inspire and guide lawyers in the practice of law:

- In my dealings with lawyers, parties, witnesses, members of the bench, and court staff, I will be civil and courteous and guided by fundamental tenets of integrity and fairness.
- My word is my bond in my dealings with the court, with fellow counsel and with others.
- I will endeavor to resolve differences through cooperation and negotiation, giving due consideration to alternative dispute resolution.
- I will honor appointments, commitments and case schedules, and be timely in all my communications.
- I will design the timing, manner of service, and scheduling of hearings only for proper purposes, and never for the objective of oppressing or inconveniencing my opponent.
- I will conduct myself professionally during depositions, negotiations and any other interaction with opposing counsel as if I were in the presence of a judge.
- I will be forthright and honest in my dealings with the court, opposing counsel and others.
- I will be respectful of the court, the legal profession and the litigation process in my attire and in my demeanor.
- As an officer of the court, as an advocate and as a lawyer, I will uphold the honor and dignity of the court and of the profession of law. I will strive always to instill and encourage a respectful attitude toward the courts, the litigation process and the legal profession.

This creed is a statement of professional aspiration adopted by the Washington State Bar Association Board of Governors on July 27, 2001, and does not supplant or modify the Washington Rules of Professional Conduct.

Learn More

In this program...	See other topics in this section.
At the Bar...	WSBA Creed of Professionalism can be found on wsba.org at Legal Community >Committees, Boards, and Other Groups >Professionalism Committee
On the web...	Professionalism, Civility, Creed, Preadmission



Hypothetical Scenarios in Unprofessional Conduct

Tips:

- Exhibit honesty, courtesy, respectfulness, and keep one's commitments, whether written or verbal.
- Always be candid with the court.
- Be familiar with all local rules in the courts where you plan to practice.
- Be on time to court. If delayed, notify the court and opposing counsel if possible.
- Be prepared for all court appearances.
- Never engage in conduct that brings disorder or disruption to the courtroom.
- Advise your clients and witnesses appearing in court of the proper attire and conduct expected in court.
- Make reasonable efforts to expedite litigation consistent with the interests of the client.
- Never communicate about a case with a party that you know is represented by another lawyer.

Traps:

- Lack of objectivity while handling a client's case
- Disparaging personal remarks directed toward other counsel, parties, or witnesses
- Intentionally timing the filing or service of motions or pleadings to unfairly limit another party's opportunity to respond
- Designing a discovery plan that places an undue burden or expense on a party, or for other improper purpose
- Lack of punctuality and preparedness for court appearances
- Failing to advise clients and witnesses of proper courtroom conduct and dress
- Misleading the court or opposing counsel
- Threatening sanctions as a standard reaction to difficulties or disagreements with other attorneys
- Bringing litigation to gain an advantage in a pending matter or business negotiation
- Advising clients to act improperly in order to gain an advantage
- The use of "strategic noncompliance" with discovery
- Refusing to agree on routine matters, such as continuances or scheduling

Read the following case studies. Do any of the problems described above show up in these cases?

These represent actual cases heard before the Disciplinary Board of the WSBA with names and dates omitted. Solutions are available through the Public Discipline Search website.

CASE A: False statements and prejudicial conduct

Mr. D sued his client for failing to abide by a contingent fee agreement. The client's counsel, Ms. A scheduled Mr. D's deposition. In response to a question about his residence address, Mr. D stated: "None of your business. I do all my work from my office and as you instructed your client to answer



yesterday, it's none of your business where I live. And as far as having sex with you, forget it. I'm not interested."

Ms. A responded: "Mr. D, please do not pose any personal comments to me of that kind. This is a deposition. Could you please, restrict it to the questions asked?"

Mr. D answered: "I was just responding to your request and I refuse to have sex with you under any circumstances."

Following the deposition, Mr. D wrote the following in a letter to Ms. A: "Your attempt to expose yourself by spreading your legs from time to time during the deposition does not impress me. It disgusts me. Please keep your legs together whenever in my presence. I consider it unprofessional and sexual harassment." Mr. D made similar false statements to opposing counsel.

Ms. A filed a motion to withdraw from the case. Mr. D objected to the withdrawal. In his objection to the withdrawal, Mr. D told the court that Ms. A had offered him sexual favors in return for settling the case and alleged that she had exposed herself to him during the deposition. Mr. D's allegations were false. The court allowed Ms. A to withdraw and granted a continuance.

VIOLATION:

CASE B: False statements

In one matter, H was hired in November 1992 to obtain an antiharassment order. He filed a petition for an order for protection without his client's signature or verification, as required by RCW 10.14. The petition was based solely on hearsay and was facially deficient. The commissioner dismissed the petition and ordered sanctions against H. H filed an objection to the award of sanctions. In his objection, H alleged that the commissioner's ruling was biased because he was a friend of the opposing counsel. The commissioner and opposing counsel were not friends, and the allegation was not supported by credible evidence.

VIOLATION:



Professionally Speaking

CASE C: Purpose to embarrass or burden a third person, conduct prejudicial to the administration of justice, and violation of the oath of attorney

Mr. N was attending a deposition on behalf of the plaintiff in a wrongful-termination action. Prior to the deposition, there had been an atmosphere of disagreement between Mr. N and the lawyer representing the defendant. The deposition had been ordered following a motion to compel, opposed by Mr. N. At the commencement of the deposition and in its early stages, Mr. N appeared irritated and angry. At times during the deposition, the witness sobbed and cried. As the deposition progressed, Mr. N became more hostile and angry, raising his voice. Just over halfway through the deposition, Mr. N began to criticize the defendant's lawyer and call her names in an unprofessional manner. Mr. N characterized the defendant's lawyer as "a disgrace" and "a total ass." When the defendant's lawyer advised Mr. N to start acting like a civilized person, Mr. N told her that she did not deserve civilized treatment.

After the deposition concluded, Mr. N confronted the defendant's lawyer in the deposition conference room. Mr. N approached the defendant's lawyer in a hostile manner and raised his voice. He came within six to eight inches of her face and body and yelled unprofessional remarks, frightening both her and the court reporter. As Mr. N continued to push towards her, the defendant's lawyer placed her left hand on the front of Mr. N's right shoulder area, thereby attempting to restrain Mr. N's motion toward her as she was being backed up against the conference room table. She asked Mr. N several times to "leave" or "just to leave." Mr. N persisted, continuing his unprofessional verbal comments to her. Once or twice, Mr. N told the defendant's lawyer to remove her hand from him. When she failed to do so, Mr. N struck her on the left side of her face with his palm. Mr. N then turned and departed.

Mr. N was arrested and charged with fourth-degree assault. The criminal matter was resolved pursuant to an agreement to continue the case for dismissal. In the wrongful-termination action, the superior court judge removed Mr. N as legal counsel and held Mr. N personally responsible for attorney's fees and costs incurred in connection with the motion. Following the incident, the defendant's lawyer experienced swelling, redness, bruising, and pain to the left side of her face. The day after the incident, the defendant's lawyer went to see a physician and was sent to a radiologist for a CT scan, incurring medical expenses of \$1,277.54.

VIOLATION:



CASE D: Purpose to embarrass or burden a third person, conduct prejudicial to the administration of justice, and violation of the oath of attorney

Mr. K represented a ballet teacher, his ballet school and related nonprofit performing dance group. An adult ballet student loaned the teacher money for the business. In September 1995, the teacher assaulted the adult student, who filed a criminal complaint. Mr. K contacted the adult student at her new employer, explained he was sorry about what happened, and said he wanted to help her get her money back from the teacher. Later, Mr. K sent a "Memorandum of Understanding" to the adult student at her workplace. The student rejected the memorandum because it contained the same terms as the promissory notes the teacher had previously signed. The memorandum also stated that the student would not make any adverse comment about the teacher. The student worried that this might interfere with the pending criminal matter. At Mr. K's request, the student faxed him copies of the promissory notes. Although the teacher was asked not to be involved, the parents and board members of the dance group continued fundraising, and the group performed as scheduled in Federal Way, using a new name and new choreography. Mr. K served a lawsuit naming the ballet company and dance group as plaintiff and the adult student, her employer, and other parents as defendants. Mr. K alleged that the defendants had started a "rival ballet studio," and that together they constituted a "racketeering enterprise." The complaint had no basis in fact. Although Mr. K threatened, he never filed this lawsuit.

VIOLATION:

Learn More

In this program...	See other topics in this section.
At the Bar...	Discipline Notices - You can search for these cases and additional cases on wsba.org at Lawyer Directory > Discipline Notices. Enter "conflicts" and other key words into the "discipline keyword" search box.
On the web...	Professionalism, Preadmission



Intergenerational communication tips and traps

For the first time in history, four distinct generations are working side-by-side. According to sociologists, each of these generations has developed its own personality, influenced by the conditions and events it has experienced. Each generation has distinct attitudes, behaviors, expectations, and work habits. So, while new attorneys are “bridging the gap” between law school and law practice, everyone must figure out how to bridge the generation gap.

A successful work environment recognizes and appreciates the variety of perspectives, styles, values and opinions, and seeks out and respects differences.

Who are we?			
Generation	Influenced by	Work ethic	Values
Veterans (1922-1943) <ul style="list-style-type: none"> • WWII Generation • Traditionalists 75 million	<ul style="list-style-type: none"> • Great Depression • World War II • Korean War • Men worked and went to war, women stayed home 	<ul style="list-style-type: none"> • Strong work-ethic • Independent • Wants to leave a legacy • Loyal 	<ul style="list-style-type: none"> • Has extensive networks • Practical • Irreplaceable wisdom • Frugal • Patriotic • Conservative
Baby Boomers (1943-1960) 80 million	<ul style="list-style-type: none"> • Single-parenthood • Abundant economy • Dominant population group 	<ul style="list-style-type: none"> • Like face-to-face meetings • Sacrifice personal life for work and family • Wants to have a stellar career – lives to work • Goal and results oriented 	<ul style="list-style-type: none"> • Demand fairness and equality • Competitive • Idealist
Gen X (1960-1980) 46 million	<ul style="list-style-type: none"> • Watergate • Latchkey kids • Energy crisis • Beginning technology age 	<ul style="list-style-type: none"> • Demand immediate feedback (and provides it!) • Want flexibility and fun at work • Dislike close supervision • Reject rules, rigidity and authority • Work to live • Loyal to self and team, not necessarily the organization 	<ul style="list-style-type: none"> • Practical • Resilient • Comfortable with change • Careers are fluid, so building skills is important • Understand work-life “balance” • Understand diversity • Engage in volunteerism
Millennials (1980+) <ul style="list-style-type: none"> • Gen Y • Nexters 76 million +	<ul style="list-style-type: none"> • Devoted parents with high expectations (soccer moms, little league dads) • Structured, scheduled lives • Technology-filled life 	<ul style="list-style-type: none"> • Rewrite the rules • Need structured and supportive environment • Respect positions and want a relationship with their boss 	<ul style="list-style-type: none"> • Optimistic & confident • Embrace diversity • Team oriented • Expects to have multiple parallel careers



Tips for inter-generational communication

- Recognize and respect the experience of older generations
- Respect the ideas of younger generations
- Learn what the other finds important
- Be clear and specific with expectations
- Be sure communication is a two-way dialog
- Focus on professionalism and client service as the outcome of work
- Be sure work is meaningful – be sure you understand what that means for each person
- Be open to ideas and approaches of others
- Be careful listeners
- If you want feedback before it is offered, ask for it
- Understand that there are different perceptions of work-life balance
- Use a variety of means to communicate – face-to-face communication is highly valued by older people and helps to avoid misperceptions while younger people may prefer the efficiency of email

Traps:

- Making judgments or assumptions about a person based upon his/her age (e.g., boomers may be “traditional” in work ethic but have the values of a Gen-Xer)
- Reacting on a superficial level rather than asking for clarification
- Making assumptions based upon our perceptions rather than the other’s intentions
- Making assumptions based upon our personal feelings about a particular generation
- Applying “one-size-fits-all”

Learn More

In this program...	See other topics in this section.
At the Bar...	Studies, news, policies and resources that advance and promote Diversity can be found on wsba.org at About WSBA > Diversity
On the web...	Professionalism, Preadmission, Diversity, Communication



Professionally Speaking

Cross Cultural Communication

Our nation is growing and becoming increasingly diverse. The ability to communicate effectively across cultural boundaries has become a core skill required by many organizations. Cross cultural communication is one of the most important elements of diversity and inclusion. The ability to address and actively hear individuals from minority groups is crucial to the fair and impartial engagement of attorneys who serve them.

A key factor in building this skill set is the relationship between two or more individuals from varied backgrounds and life experiences. A workshop, seminar or educational session can transfer information but establishing a relationship requires willingness, time, energy and a real person with whom to interact. Relationships afford us the opportunity to move beyond superficial discussion to authentic dialogue.

The professional capable of emanating authenticity while in dialogue with peers, clients and other professional is more likely to succeed. An important part of the authentic dialogue is owning the lack of personal knowledge and experience that you may bring to the table. For example, "I've never had to juggle work and parenting, your schedule must be pretty hectic. I have a lot of respect for individuals who are able to do both. Tell me how you manage it." This allows the other individual to fill those gaps for you and becomes the breeding ground for building and establishing trust.

Once trust is established you can move into a conversation with depth. This may take some time but it is worth the effort. Cross cultural communicators realize that it is only dialogue with depth that equips them with the skill to communicate well. When trust exists in the relationship, be it with peers or other professionals, you lose the need to speak with raised guards. As the guards are lowered, mutual feedback can be shared without fear of attack, reprisal or exclusion. Suddenly, you have "crossed" whatever cultural barrier may exist.

This moves you into a place where any implicit bias tendencies can be discussed openly with the goals of learning and problem resolution. Professionals who practice this type of approach to communication will experience both a sense of being uncomfortable and increased personal satisfaction. Both of these states are normal to the professional "crossing" the cultural divide and intentionally engaging in authentic dialogue.

Learn More

In this program...	See other topics in this section.
At the Bar...	Studies, news, policies and resources that advance and promote Diversity can be found on wsba.org at About WSBA > Diversity
On the web...	Professionalism , Preadmission , Diversity , Communication

