

WASHINGTON STATE
BAR ASSOCIATION

LIMITED LICENSE LEGAL TECHNICIAN
FAMILY LAW EXAMINATION STUDY GUIDE
SEPTEMBER 2019

Contents

Introduction	1
Exam Topics	2
I. Child Custody	2
II. Dissolution/Legal Separation	2
III. Ex Parte and Temporary Orders.....	2
IV. Domestic Violence and Protection Orders.....	2
V. Committed Intimate Relationship Actions.....	2
VI. Maintenance & Support.....	2
VII. Community Property/Property Division	3
VIII. Parentage	3
IX. Relocations.....	3
X. Additional Topics.....	3
XI. Scope of LLLT Practice.....	3
Concepts for Study.....	4
General Concepts.....	4
I. Child Custody	4
II. Dissolution/Legal Separation	5
III. Ex Parte and Temporary Orders.....	5
IV. Domestic Violence and Protection Orders.....	6
V. Committed Intimate Relationships.....	7
VI. Maintenance & Support.....	7
VII. Community Property/Property Division	8
VIII. Parentage	8
IX. RelocationS	9
X. Additional Topics.....	9
XI. Scope of LLLT Practice.....	10
Sample Questions and Grading Guidelines.....	12
Sample Essay Question #1	12
Sample Essay Question #2	13
Tips for Performance Test.....	14
Answer Keys.....	15
Sample Essay Answer #1.....	15
Sample Essay Answer #2.....	17

INTRODUCTION

An LLLT will be engaged in the limited practice of law under Admission and Practice Rule (APR) 28. Therefore thorough knowledge of APR 28 is required. For success and accuracy in the family law practice area, an LLLT should have general knowledge of child custody actions, dissolution/legal separation actions, domestic violence/other protection order actions, committed intimate relationship actions, relocation actions, child support actions, community property principles, paternity actions, and other related subjects and services available to clients with family law issues. A successful LLLT candidate should also be able to identify those matters and issues beyond the LLLT's scope of practice in family law. Study and review of these objectives should enable you to fully prepare for the examination.

The LLLT Family Law Practice Area Exam is four-and-a-half hours long and has two sessions. There will be a 15-minute break between the two sessions.

The first session is the written portion of the exam. There will be an essay section with three essay questions and a performance part with one performance test question. You will have three hours to complete these parts of the exam; an hour-and-a-half should be allotted to complete the essays and an hour-and-a-half hour for the performance test.

The second session is the multiple choice part of the exam. You will have 90 minutes to answer 50 questions. The questions are a mix of simple short answer questions, mostly testing definitions or RCW's, and longer analytical questions that will present a fact pattern and require you to apply your knowledge to select the **BEST** answer. You should plan to spend no more than one minute on each simple question and no more than three minutes on each analytical question.

In order to pass the exam, you must receive a score of 75% or higher on each of the three parts of the exam (multiple choice, essay, and performance). Failing one section will require retaking the entire exam. There is no appeal process for licensing exam results.

Study Materials: APR 28, Scope of Practice Regulation 2, LLLT RPCs, RCW Title 26, *Washington Family Law Deskbook*, *Washington Community Property Deskbook*.

EXAM TOPICS

I. CHILD CUSTODY

Custody Basics

Parenting Plans: Initial, minor modifications, and major modifications

Non-Parental Custody

Adequate Cause

Basis for Restrictions on Custody Order

Application of UCCJEA, Continuing Jurisdiction from Home State & ICWA

Contempt Issues

Appointment of Guardian Ad Litem v. Evaluators

II. DISSOLUTION/LEGAL SEPARATION

Family Law Basics: Marriage Defined

Dissolution Petition

Final Orders

Legal Separation v. Dissolution

III. EX PARTE AND TEMPORARY ORDERS

Temporary Orders

Ex Parte Notice Requirements

Ex Parte Orders

IV. DOMESTIC VIOLENCE AND PROTECTION ORDERS

Domestic Violence Protection Orders (DVPOs)

Anti-harassment, Criminal No-Contact, Anti-stalking, Sexual Assault, Extreme Risk

Personal Emergency and Jurisdiction

Mediation and Alternative Dispute Resolution

Domestic Violence: Safety Planning

V. COMMITTED INTIMATE RELATIONSHIP ACTIONS

Committed Intimate Relationship Basics

Jointly-Acquired Committed Intimate Relationship Property Issues

VI. MAINTENANCE & SUPPORT

Maintenance

Child Support

Medical Benefits

Disability Benefits

Administrative Child Support Hearings

VII. COMMUNITY PROPERTY/PROPERTY DIVISION

Basic Debt and Asset Division and Management

Division of Retirement Assets Which Require Supplemental Order(s) to Divide or Award

Division of Real Property

Prenuptial Agreements/Separate Property Agreements

Voluntary Disposition

Creditors and Involuntary Disposition

VIII. PARENTAGE

Paternity Actions

IX. RELOCATIONS

Relocation Petitions

Contested Relocations

X. ADDITIONAL TOPICS

Family Law Basics—Family Law Court Assistance

Domestic Partnership Basics

Child Advocacy & Welfare: Child Welfare System

Discovery: Privilege

Alternative Dispute Resolution

Depositions

Servicemembers' Civil Relief Act

XI. SCOPE OF LLLT PRACTICE

Outside of Scope:

De Facto Parentage

Indian Child Welfare Act

UCCJEA

Adoption

Bankruptcy

Dual Representation

CONCEPTS FOR STUDY

GENERAL CONCEPTS

1. Know the types of actions that can be undertaken by LLLTs in domestic relations.
2. For each of these types of actions, know the procedure from filing to completion for both the petitioner and respondent (where appropriate).
3. Know which approved family law forms are appropriate in given circumstances and how to complete all approved family law forms.
4. Know that when real property and/or retirement account division exceeds LLLT's limit, LLLTs may complete the petition for dissolution/legal separation by indicating the division will be determined by the court at a later date.
5. Given a specific fact scenario, be able to:
 - a) Identify issues that need to be addressed or resolved.
 - b) Develop an action plan.
 - c) Create a client to-do list.
 - d) Select and complete appropriate forms.

I. CHILD CUSTODY

1. Know the legal standard used in all domestic relations orders directly involving children.
2. Know the types of actions that are beyond the scope of permitted practice for LLLTs in domestic relations.
3. Know what can be established in a parenting plan.
4. Know what can be ordered in a child support order.
5. Understand the differences between a minor versus a major parenting plan modification and be able to identify examples of each.
6. Know when a major modification is considered contested.
7. Know when an adequate cause hearing is required.
8. Know the factors required for filing a non-parental custody petition.
9. Know the factors required for filing a contested major modification.
10. Know when parties may stipulate to a modification of parenting plan outside of court (i.e. CR2A, arbitration, mediation).
11. Know when the court is required to issue sole decision-making authority to one parent.
12. Know the mandatory and discretionary standards for determining decision making authority.
13. If a child custody order is issued as part of a domestic violence protection order, know the longest span of time it may be in effect.
14. Know how to inform the court about substance abuse issues (etc.) in parenting plans in order to establish a sufficient legal basis for restrictions.
15. Know the factors the court considers when making residential provisions in a permanent parenting plan. Know which of these factors carry the greatest weight.
16. Know the factors that may be grounds for limiting residential time with a parent.
17. Know the impact of parental limitations on a custody order.
18. Know when supervised visitation is mandatory.
19. Where a parent is found to have a sexual abuse conviction, know whether the court must order supervised visitation.
20. Know when it is appropriate to file a motion for contempt in a parenting plan action.

21. Know when it is appropriate to file a motion for contempt with regard to child support or maintenance.
22. Know the statutory relief prescribed and procedural requirements of RCW 26.18.160 in regards to defaults on child support and maintenance.
23. Know the legal standard for a finding of contempt.
24. Understand when emergency jurisdiction applies under the UCCJEA and its practical limitations.
25. Know the length of time the parties must have lived in Washington for Washington to be considered the children's home state for the purpose of establishing a custody order or parenting plan regarding the children.
26. Understand the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and Indian Child Welfare Act (ICWA) and when each applies in a custody action. Be able to identify when an LLLT should refer a client to an attorney for help with this issue.
27. Understand the procedure for getting one court to decline to exercise its jurisdiction so that a more convenient court can exercise its jurisdiction.
28. Know under what circumstances a party may waive mediation and ask for only court action.
29. Know the options regarding dispute resolution that may be placed in a parenting plan.

II. DISSOLUTION/LEGAL SEPARATION

1. Know what is important to include in the original petition for dissolution.
2. Define "joinder" and identify what is required for a joinder.
3. Know when a party is in danger of defaulting in terms of a dissolution action.
4. Know when a moving party may file a motion for default in a dissolution action.
5. Know the standards for determining venue when a motion for change of venue has been filed.
6. Understand the importance of the "home state" in determining jurisdiction.
7. Understand why it is important to have dates of marriage and separation included in the final orders.
8. When anticipating a default, understand why it is important the final orders be consistent with the relief requested in the petition for dissolution and when it may be necessary to file and serve an amended petition for dissolution.
9. Know the forms of relief granted in a final order that may be modified and under what circumstances.
10. Explain what a "hold harmless" clause is.
11. Know when final orders may be modified.

III. EX PARTE AND TEMPORARY ORDERS

1. Know the procedure for entering a temporary parenting plan.
2. Know what evidence should be presented under RCW 26.09.194 for obtaining a temporary parenting plan.
3. Know what types of temporary orders can be obtained in a domestic relations action.
4. Know when it is appropriate to go in ex parte for an immediate restraining order rather than providing notice and setting a hearing on a motion for temporary orders.
5. Know the duration of a temporary order.
6. Know a party's options when s/he has been served with an ex parte order without having received notice of the ex parte hearing.

7. Know the duration of an ex parte restraining order.
8. Know if and what notice a party is required to provide to the other party when seeking an ex parte restraining order.

IV. DOMESTIC VIOLENCE AND PROTECTION ORDERS

1. Know the legal standard for obtaining a DVPO.
2. Know the eligibility requirements for obtaining a DVPO (age, etc.).
3. Know when it may be possible to obtain an emergency DVPO in ex parte court with or without giving notice to the opposing party.
4. Define “domestic violence” per the statute.
5. Define a “family or household member” in a domestic violence action.
6. Understand when one type of protective order might be preferable to the other.
7. Know the process for terminating or modifying a domestic violence protection order (DVPO).
8. Know the factors considered by the court in determining whether there has been a “substantial change in circumstances” to warrant modifying a protection order that is of two or more year’s duration.
9. Know which order takes precedence where there are conflicting orders in a family law matter (e.g., a protection order and a criminal no-contact order, parenting plan v. protection order, temporary order v. criminal no-contact order, parenting plan v. dependency order).
10. Know when a DVPO may last longer than one year for a child.
11. Know when a person may renew their protection order before it expires and how to do so.
12. Name the different types of restraining orders that exist and know the differences between each.
13. Know upon whom the burden of proof falls when seeking a renewal of a protection order.
14. Know the procedure for obtaining a protection order for a child in Washington if the child’s home state is not Washington.
15. Know when Section 3.10 of the parenting plan should include limiting factors on a parent’s residential time based on RCW 26.09.191 restrictions in Sections 2.1 and 2.2 of the parenting plan.
16. Know which restrictions are appropriate to propose in a parenting plan in cases of domestic violence.
17. Know the standards for determining venue in an initial protection order proceeding.
18. Know under what circumstances a person may obtain a protection order against someone who does not live in Washington State.
19. Understand that taking legal action can increase risk of abuse in some domestic violence cases and the impact on the client.
20. Know resources that a domestic violence survivor may access to get further help assessing risks and making plans that can increase chances of staying safe.
21. Explain how a Violence Against Women Act (VAWA) petition or U-Visa can impact a family law case.
22. Know what provisions in landlord/tenant law protect survivors of domestic violence.

V. COMMITTED INTIMATE RELATIONSHIPS

1. Define and be able to identify the factors relevant to determining whether something is a committed intimate relationship (CIR).
2. Understand parenting plans and child support for unmarried parents.
3. Understand how community property applies in a CIR.
4. Be able to recognize when a CIR issue goes beyond the LLLT scope of practice.

VI. MAINTENANCE & SUPPORT

1. Know the factors the court uses to determine whether awarding maintenance is appropriate.
2. Know the limitations, if any, on the duration of maintenance.
3. Know when maintenance is modifiable and the procedure for doing so.
4. Know how child support obligations are determined in Washington.
5. Know what is included in "income" for the purposes of calculating child support.
6. Know what is included in "gross income" for the purposes of calculating child support.
7. Know what income must be disclosed to the court to determine child support.
8. Know what types of income and what types of deductions considered in calculating child support, particularly when a party may have some income from self-employment. Know allowable expenses that may be included in child support worksheets.
9. Know when a child support order may be modified and the procedure for doing so.
10. Know the circumstances under which a court may find a party in contempt of a child support order.
11. Know the procedure for obtaining a contempt order against a party in a domestic relations matter.
12. Define "transfer payment" and identify when a party is most likely to have to pay a transfer payment.
13. Know the circumstances under which the court may grant a party a deviation from the standard child support obligation.
14. Understand how responsibility for medical benefits for children may be apportioned in a domestic relations matter.
15. Know what percentage of the basic child support obligation health insurance for children must **NOT** exceed.
16. Understand how responsibility for medical benefits for ex-spouses may be apportioned in a dissolution matter.
17. Understand the difference between Supplemental Security Income (SSI) and Social Security Disability Income (SSDI). Understand how each may affect a child support calculation if the party receives the disability benefits.
18. Know what Temporary Assistance for Needy Families (TANF) is and how it may affect a child support action, including when the Division of Child Support may become a party to the action.
19. Understand the administrative hearing process in child support cases, including pre-hearing conferences, administrative hearings, and relief through a Conference Board.
20. Be familiar with administrative hearing rights and notices.
21. Understand the Division of Child Support's role in providing support enforcement services.

22. Know how to request enforcement of a superior court issued child support order.

VII. COMMUNITY PROPERTY/PROPERTY DIVISION

1. Know the legal standard the court uses to award property in a dissolution action.
2. In a dissolution action, know the property over which the court has jurisdiction.
3. Know the factors the court uses to award property in a legal separation action.
4. Know what a prenuptial/separate property agreement is and be able to recognize one.
5. Define “community property.”
6. Define “separate property.”
7. Understand community and separate property principles and be able to recognize examples of each.
8. Explain how property of one character can be changed to property of another character.
9. Know how to distinguish between the character of property and the rights of reimbursement.
10. Know the implications on property of married couples living separately and apart.
11. Know when division of retirement benefits and real property are beyond the scope of permitted practice.
12. Understand the legal implications of taking title in one or both spouse’s names.
13. Know what rules apply when gifts or sales of community property are made by one spouse.
14. Know under what circumstances one party may be held individually liable for contract and tort obligations that were incurred during the marriage. Know the management rules related to community property.
15. Know a remedy available if a spouse dissipates or hides assets during the dissolution process or before the dissolution process begins.
16. Know what decisions are at the court's discretion in terms of dividing community property.
17. Know the default rules for distributing property upon the death of one spouse.
18. Understand how one spouse may bind the community to an obligation.
19. Understand how responsibility for obligations is determined in a dissolution action.
20. Understand what a client should expect if an ex-spouse who is ordered to pay obligations does not pay the obligations.
21. Know the basic rules for creditor rights against the couple’s property for contract and tort obligations.
22. Understand what remedies may be available to spouses where a specific asset is indivisible in dissolution actions.
23. List the benefits a service member receives as a result of his/her employment that may be at issue in a domestic relations matter. Be able to identify which of these benefits, if any, an LLLT may assist a client in the division of.
24. Provide examples of owned real estate and retirement assets that would be outside the scope of practice for division.
25. List the circumstances under which an LLLT must advise a client to seek the advice of an attorney to deal with division of community property.

VIII. PARENTAGE

1. Describe the legal effect of signing a paternity affidavit.

2. Know the options for clients who wish to start a parentage action, where paternity has not been established.
3. Know how venue is determined in a parentage action.
4. Know when a client should file a parentage action versus a parenting and support action.
5. Know the procedure for filing a parentage action.
6. Know the remedies available in a parentage action.
7. Know the remedies **NOT** available to parties in parenting plan and child support actions that are available in dissolution actions.
8. Know whether parentage orders are treated as final parenting plans for purposes of modification.
9. Know the timeline to challenge a paternity affidavit.
10. Know the options available to a party who wishes to disestablish or rescind paternity.
11. Know the circumstances under which a party may rescind a paternity affidavit.
12. Know the factors that create a presumption of paternity.

IX. RELOCATIONS

1. Know the criteria used to determine whether or not a custodial parent may relocate.
2. Know when a party may relocate after serving a notice of intended relocation.
3. Know when a party may waive notice requirements in a relocation action.
4. Know the kinds of temporary relief available in a relocation action.
5. Know the process for initiating a relocation action.
6. Understand how domestic violence may impact a relocation action.
7. Know when an LLLT should **NOT** be involved in a relocation action.
8. Know the options for a party where the other party has already moved and never gave notice of intent to relocate.

X. ADDITIONAL TOPICS

1. Know the options available for evaluations and investigations in parenting actions.
2. Know the differences between a guardian ad litem (GAL), court appointed special advocate (CASA), parenting plan evaluator, and an independent investigator.
3. Know for what purpose a court may appoint a GAL or CASA.
4. Know what is outside of the scope of authority of a GAL or CASA.
5. Know the role of a parenting plan evaluator in contrast to a GAL and CASA.
6. Know the reasons a couple may choose a legal separation over a dissolution.
7. Know the asset/benefit/tax considerations that might be affected by choosing to file a dissolution rather than a legal separation.
8. Know when a legal separation may be converted to a decree of dissolution.
9. Define “state registered domestic partnership” and list the basic legal implications of a state registered domestic partnership.
10. Know the eligibility requirements in Washington State to become state registered domestic partners.
11. Know the procedure for dissolving a state registered domestic partnership.

12. Understand the implications of Referendum 74 on state registered domestic partnerships established prior to June 30, 2014.
13. Understand how domestic relations actions may be affected if there is a dependency action.
14. Understand the implications on a domestic relations action when a party is covered by either the federal Servicemembers Civil Relief Act or Washington State's Service Members' Civil Relief Act. List the notice requirements if the other party is a service member under either act.
15. Know the procedure for requesting a waiver of court fees for low-income litigants.
16. Understand how to identify when a person may be "judgment proof."
17. Know the difference between mediation, arbitration, and mediation-arbitration.
18. Be familiar with the terms of a CR2A Agreement/Separation Contract.
19. Know the difference between facilitative mediation and evaluative mediation.
20. Know how an LLLT may assist a client with depositions and what is outside the scope of practice for an LLLT for depositions.
21. List who may conduct a deposition.
22. Know the difference between a motion for reconsideration and a motion for revision.
23. For both a motion for reconsideration and motion for revision, know:
 - a) the legal authority for the motion.
 - b) the deadline for filing the motion.
 - c) the service deadline for the motion.
 - d) whether there is an automatic stay of the subject order in place while a motion is pending.
 - e) whether new evidence is permitted when requesting reconsideration/revision.
 - f) the permissible grounds for the motion.
 - g) whether the opposing party is permitted a response to the motion and by when.
 - h) whether oral argument is permitted on the motion.
 - i) when a hearing on reconsideration/revision should be scheduled.

XI. SCOPE OF LLLT PRACTICE

1. Define a non-parental custody action and know how to identify one.
2. List the actions, if any, an LLLT may undertake for a client with respect to non-parental custody actions.
3. Define a de facto parentage action and know how to identify one.
4. List the actions, if any, an LLLT may undertake for a client with respect to de facto parentage actions.
5. Understand the Indian Child Welfare Act (ICWA) and when it applies to a domestic relations action. Be able to identify when an LLLT should refer a client to an attorney for help with this issue.
6. Identify what an LLLT may assist a client with when a client and/or his/her spouse is in bankruptcy or is in the process of discharging a bankruptcy. Be able to identify when an LLLT must refer a client to an attorney for help with bankruptcy or other debt issues.
7. List when, if ever, an LLLT may represent both parties in a domestic relations action. Know how to respond to a request to represent both parties in a domestic relations action.
8. Know the limits of an LLLT's involvement in a hearing.

9. List the hearings at which an LLLT may advise and assist a client.
10. Know the limits on an LLLT's ability to communicate and/or negotiate with an opposing party or opposing counsel.
11. Know the limits of an LLLT's ability to negotiate a client's legal rights or speak on behalf of the client.
12. Know what is required before an LLLT may negotiate on behalf of a client.

SAMPLE QUESTIONS AND GRADING GUIDELINES

This study guide includes two sample essay questions and tips for preparing for the performance test. The answers and the grading guidelines for the essay questions are at the end of this guide so that you may test and score yourself. You should allow yourself 30 minutes to answer the essay question.

Sample Essay Question #1

John and Mary lived together in Seattle, Washington for three years. During that time a daughter, Jill, was born and John was listed as the father on the birth certificate. John enlisted in the army and was deployed to duty in Iraq. Just before he left, John and Mary were married. After two years of service John returned. Two years later another child, Fred, was born and Mary quit her job as a school teacher to stay at home with the children.

Two years later, Mary filed for a legal separation. At about the same time, John was notified that he was being transferred from a base in Washington to a base in California. Mary decided she would remain in Seattle with the children. Before he left, John met with you about Mary's refusal to go with him. You told him that there was no way to compel Mary to move if she did not want to. You helped him file a response to the petition for legal separation.

Six months later, after John has moved to California, Mary, who is still unemployed, comes to you requesting information about a dissolution. Mary does not want John to know that she is considering divorce.

Discuss:

1. Can you advise Mary about a dissolution? Why or why not? (Worth 20%)

Setting aside any possible ethical considerations raised by the facts as stated, analyze the following:

2. Please discuss issues regarding filing, service (including how long John has to respond), and jurisdiction over the children and for a dissolution. Are any of these requirements different because John is in the military or because he is stationed out-of-state? (Worth 45%)
3. What factors will the court consider when deciding if it will award child support for both children and maintenance for Mary? What process will the court follow to determine the appropriate amounts of any child support or maintenance? (Worth 35%)

Sample Essay Question #2

Sue and Greg married when they were both eighteen years old; they are both now 23. Sue began working at a fast food restaurant during high school and maintained that job after they were married. During the marriage, Greg worked as a salesman getting paid only by commissions on his sales.

Six months after they were married, twin girls were born. Greg was not happy about this pregnancy. Sue had to quit her job during the pregnancy so they were dependent on Greg's earnings to support the family. Sue did not work again after the twins' birth. However, Sue's grandmother left Sue a trust fund which will start paying her \$2,000 per month when she turns age 25 in less than two years.

When the children were four, Sue decided that she wanted a divorce and moved home to her parents with the twins. Sue took the family vehicle which was the only significant asset they owned. She also took the balance of \$78 in their joint banking account.

Greg told Sue he would not seek residential time with the twins in return for not having to pay child support. Sue is willing to agree to this.

The couple has several thousand dollars of medical bills from the birth of the girls as well as three credit card accounts that are at their limits. Sue does not believe she can pay the debts that the couple owes and wants to know her options. Sue wants to dissolve her marriage and seeks your advice both as to support for the twins and herself, and as to the debts incurred by the community.

Discuss:

1. What are the considerations for determining or imputing the income of each party to be used in setting child support? (Worth 40%)
2. How would you advise Sue as to the Court's likely ruling regarding the proposed residential time and child support agreement and why? (Worth 20%)
3. How would you advise Sue regarding the characterization and division of debts and assets in the dissolution? Discuss the effects of a hold harmless clause on the parties and on the rights of others. (Worth 40%)

Tips for Performance Test

The Family Law Practice Area Examination Performance Test normally consists of several components:

Reading a fact pattern. The fact pattern will describe a situation in which a LLLT's services would be used, introducing a client and some pertinent background information. Fact patterns for performance test are usually complex and will include multiple issues in each scenario. Examples of common issues included in performance tests are dissolution, custody disputes, division of personal property, domestic violence, substance abuse by a parent or guardian, LLLT scope, relocation, and parentage.

Analyzing supporting documentation. Often, performance tests will include court forms, declarations, financial statements or other documents that are intended to provide additional background and information for the test-taker. Closely read these supporting documents before completing the performance test tasks.

Completing tasks. Typical tasks include listing or selecting all forms that will be needed to complete the client's case, filling out pattern forms, answering several short answer questions regarding client advice, or translating information from the supporting documentation (such as a declaration or a CR2A agreement) into a pattern form. Most performance tests include 2-4 tasks.

The most substantial portion of the test will focus on demonstration of your mastery of the pattern forms; to prepare for the test, practice completing domestic relations pattern forms and know specifically how and when you would use each form. All tests after July 1, 2016 will use the plain language forms mandated for use by the Administrative Office of the Courts.

You will have 90 minutes to complete the performance test.

ANSWER KEYS

Sample Essay Answer #1

The LLLT has previously advised John about issues pertaining to Mary and the children. Therefore, the LLLT cannot advise Mary because there is a conflict of interest. The LLLT may refer Mary to another LLLT or an attorney.

The fact that John is in California does not make any difference to the jurisdiction where Mary can file for dissolution because Mary still resides in Washington. The Servicemember’s Civil Relief Act will apply when considering the civil procedure for this case; i.e., there are different time and notice requirements for service of process and a possible default of the opposing party. There may be a UCCJEA issue. The LLLT cannot determine if Washington has jurisdiction under the UCCJEA.

A court would determine child support for the children in a dissolution proceeding. The court will set child support in accordance with the statutory formula. In terms of maintenance the court will look at the length of the marriage and the ability to pay versus the need of the recipient. Mary quit her job as a school teacher and may need temporary maintenance to help her get back on her feet again and find work. Jill and Fred have the same legal status to receive child support regardless of when they were born in relation to the marriage.

Grading Guidelines

Issues	Comments/Percentage
1. Can you advise Mary about a dissolution? Why or why not? a. (20%) The LLLT cannot advise Mary because there is a conflict of interest. The LLLT may refer Mary to another LLLT or an attorney.	20%
2. Please discuss issues regarding filing, service (including how long John has to respond), and jurisdiction over the children and for a dissolution. Are any of these requirements different because John is in the military or because he is stationed out-of-state? a. (15%) The fact that John is in California does not make any difference to the jurisdiction where Mary can file for dissolution because Mary still resides in Washington. b. (15%) The Service Member’s Civil Relief Act will apply when considering the civil procedure for this case; i.e., there are different time and notice requirements for service of process and a possible default of the opposing party. c. (5%) There may be a UCCJEA issue. d. (10%) Service out of state allows for 60 days to respond rather than 20.	45% a. RCW 4.28.185(1)(f) b. RCW Ch. 38.42 and/or 50 U.S.C. App., 501 et seq.
3. What factors will the Court consider when deciding if it will award child support for both children and maintenance for Mary? What process will the Court follow to determine the appropriate amounts of any child support or maintenance? a. (5%) The court will set child support during a dissolution proceeding in accordance with the statutory formula.	35%

<p>b. (10%) Jill and Fred have the same legal status to receive child support regardless of when they were born in relation to the marriage.</p> <p>c. (20%) In terms of maintenance the court will look at the length of the marriage and the ability to pay versus the need of the recipient. Mary quit her job as a school teacher and may need temporary maintenance to help her get back on her feet again and find work.</p>	
--	--

Sample Essay Answer #2

In setting child support, the Court must determine what income to use for each party. Because Sue is currently unemployed, the Court will look to her historical rate of pay at the fast food restaurant and impute that hourly wage to full time or will impute minimum wage in the jurisdiction where she resides. The Court will consider her voluntarily unemployed. Greg's income will be based on his recent earning history, as well as other statistical information that is available regarding commission sales. The trust will have no current effect because she is not yet receiving it.

The agreement made by Sue and Greg concerning residential time and child support is contrary to public policy and law and the judge might not sign it. The court must consider the best interests of the children in ordering residential time. Residential time is not dependent on child support. Even if the Court does not order a party to pay child support, residential time with both parents is likely to be ordered. Child support cannot be waived and must be ordered according to a statutory formula.

All debts are community obligations, for which they are jointly and severally liable. The LLLT should refer Sue for qualified advice regarding the debts to address credit counseling, bankruptcy or other options. Any debt incurred after separation is the party's separate obligation. The LLLT should explain that the court ordered division of debt does not affect creditor's rights. The hold harmless clause contained in the pattern form decree of dissolution should be explained to the client.

Grading Guidelines

Issues	Comments/Percentage
<p>1) What are the considerations for determining or imputing the income of each party to be used in setting child support?</p> <p>a. (20%) Because Sue is currently unemployed, the Court will look to her historical rate of pay at a fast food restaurant and impute that hourly wage to full time or will impute minimum wage in the jurisdiction where she resides. The Court will consider her voluntarily unemployed.</p> <p>b. (15%) Greg's income will be based on his recent earning history, as well as other statistical information that is available regarding commission sales.</p> <p>c. (5%) The trust will have no current effect since she is not yet receiving it.</p>	<p>(40%) RCW 26.19 RCW 26.19.071(6) Imputation of Income The LLLT should recognize that the court will impute income for Sue and Greg. The Court will impute income in this priority: i. full time earnings at the historical rate of pay if available. ii. earnings at past rate of pay (can be sporadic rather than full-time) iii. full time earnings at minimum wage iv. median net income If the LLLT says that Sue or Greg's income should be "median net income", they should not be given full points for that portion of the question.</p>
<p>2) How would you advise Sue as to the court's likely ruling regarding the proposed residential time and child support agreement and why?</p> <p>a. (10%) Their agreement is contrary to public policy and law and the judge might not sign it. The court must consider the best interests of the children in ordering residential time. Residential time is not dependent on</p>	<p>(20%) a. No statute prohibits waiver, but case law does. See Hartman v. Smith, 100 Wn.2d 766, Goodell v. Goodell, 130 Wn.App. 381, 190-91 (2005) and In re Marriage of Pippins, 46 Wn.App.805, 808 (1987).</p>

<p>child support. b. (10%) Child support cannot be waived and must be ordered according to a statutory formula.</p>	
<p>3) How would you advise Sue regarding the characterization and division of debts and assets in the dissolution? Discuss the effects of a hold harmless clause on the parties and on the rights of others. a. (20%) All debts are community obligations, for which they are jointly and severally liable. b. (5%) LLLT should refer Sue for qualified advice regarding the debts to address credit counseling, bankruptcy, or other options. c. (15%) The LLLT should explain that the court ordered division of debt does not affect creditor’s rights and under the hold harmless clause one party may have a claim against the other for nonpayment of court ordered debts. The hold harmless clause contained in the pattern form decree of dissolution should be explained to the client.</p>	<p>(40%) RCW 26.16.030 c. “Hold Harmless Clause” is a provision in an agreement whereby a party agrees to indemnify another party from liability; typically applicable to family law on a reciprocal basis. In the pattern decree of dissolution, spouses have to indemnify each other from third party debt collectors.</p>