# NLTP GUIDE TO CREATING A MENTORING PLAN

#### Introduction to the NLTP Mentoring Plan

The Mentoring Plan is created by the new attorney and their mentor in the first month of the mentoring term. Essentially, the NLTP mentoring plan is a roadmap that the new attorney can follow during their first years of practice. Although the NLTP is only a 12-month program, its goal is to provide the new attorney with the opportunity to gain tools and skills that will be required to establish a long and satisfying career in the law.

The mentoring plan is made to be flexible so that it can be tailored to meet each new attorney's unique needs and can be changed at any point to reflect new interests or unexpected changes that might occur during the term. Additionally, if an area of law is not covered in the mentoring plan, new lawyers and mentors are encouraged to create their own elective sections or modify other electives to meet the new lawyers' requirements.

Participate in – Aside from any practical skills requirements, the new lawyer will ideally have hands-on experience with the activities chosen.

Observe – If it is unreasonable or if the new attorney is unable to participate in an activity, they may observe their mentor, or another attorney performing the activity. The new lawyers should then discuss what they observed with their mentor. Observing court proceedings can teach new attorneys a lot about practicing law.

Discuss- In some cases, a discussion of general legal principles and practices is sufficient. Use personal examples as much as possible in these discussions and make sure to discuss mistakes or failures along with the successes.

If new attorneys are unable to participate in or observe activities involving forms, pleadings, or other documents, use mock examples. Client interactions and other activities can be hypothetically created if needed.

During their NLTP term, new attorneys are encouraged to focus on professionalism and civility principles in all aspects of the plan. If the new lawyer has experience in areas of the plan already, they are asked to develop a deeper understanding of potential ethical or professionalism issues that may arise. (See Mentoring Guide on Professionalism.)

#### CLICK ON LINKS BELOW FOR INFORMATION ABOUT EACH SECTION:

#### Mentoring Relationship - Required Initial Meeting

Required Section 1 – Introduction to the Legal Community

Required Section 2 - Rules of Professional Conduct and Standards of Professionalism and Civility

Required Section 3 – Litigation and Transaction Handling Experiences

Required Section 4 – Intro to Law Office Management

Required Section 5 – Working with Clients

Required Section 6 - Implicit Bias and Well-Being

#### **Elective Section Instructions**

Elective Section A – Advocacy and Litigation Elective Section I – Family Law

Elective Section B – ADR Elective Section J – Juvenile Law

Elective Section C - Negotiation Elective Section K – Business Law

Elective Section D – Client Interviewing and Elective Section L – Tax Law

Counseling

Elective Section E - Civil Procedure

Elective Section F – Criminal Procedure

Elective Section G – Estate Planning

Elective Section H – Probate

Elective Section M – Real Estate Law

Elective Section N – Employment Law

Elective Section O – Patent Law

Elective Section P – Trademark Law

Elective Section Q – Other Possible Electives



# REQUIRED INITIAL MEETING

- During the first month of the mentoring term, the new lawyer should contact the mentor and arrange a meeting to get acquainted and develop a mentoring plan.
  - Online meetings can be conducted using the NLTP web platform's video chat feature.
- After a review of the pertinent NLTP Policies, the new lawyer and mentor should reach an understanding on how matters designated as confidential by the new lawyer will be handled.
  - Confidentiality issues are discussed in the NLTP Manuals for Mentors and New Lawyers.
- If the mentor and new lawyer work at the same firm (inside mentoring), the mentor should introduce the new lawyer to other lawyers and staff members at the mentor's office or ascertain that such introductions have already occurred.
- The new lawyer should establish three goals that they would like to achieve during their NLTP terms.

#### Initial Meeting Guide



# REQUIRED SECTION 1: INTRODUCTION TO THE LEGAL COMMUNITY.

#### Required Experiences

- Invite the new lawyer to attend a meeting of the local bar association (CLE, event, pro bono, social) and discuss advantages of involvement with local, state and/or national bar or professional associations. Discuss a lawyer's obligation to provide pro bono service. Encourage the new lawyer to take a pro bono case as a way to provide service AND gain legal experience. Encourage the new lawyer to fill out a pro bono volunteer sign-up form.
- Acquaint the new lawyer with And Justice For All, including Legal Aid, Utah Legal Services, Disability Law Center and other
  free clinics. The new lawyer and mentee are strongly encouraged to volunteer together at one of the free clinics such as Tuesday
  Night Bar, Family Law Clinic or Debtor's Clinic.
- If applicable, discuss internal policy on performing public service, low and pro bono projects, and hours allowed for these programs.
- Discuss and explain CLE requirements and ways to fulfill such requirements, including Bar CLE programs.

#### **Optional Experiences**

- Introduce the new lawyer to other lawyers in the community through attendance at local bar association meetings or other legal community meetings.
- Review and discuss Bar sections and committees and the value of getting involved in Bar activities and service, including the Young Lawyers Division.
- Escort the new lawyer on a tour of the local courthouse(s) and, to the extent practicable, introduce him or her to members of the judiciary, court personnel, and clerks of court.

#### **Mentoring Guides**

Introduction to the Courthouse Utah Courts Organization and Overview Introduction to the Mentor's Office



# REQUIRED SECTION 2: RULES OF PROFESSIONAL CONDUCT AND STANDARDS OF PROFESSIONALISM AND CIVILITY.

## Required Experiences

- Attend the required NLTP Ethics Course, offered either in the fall or spring.
- Review and discuss the Rules of Professional Conduct.
- Review and discuss the following Rules:
  - 1.7-8. Conflict of interest: current clients;
  - 3.3. Candor toward the tribunal;
  - 4.2 Communication with persons represented by counsel; or
  - 4.3 Dealing with unrepresented persons.
  - 6.1 Voluntary pro bono legal system



# REQUIRED SECTION 2 (CONTINUED)

#### Required Experiences (Continued)

- •Review and discuss the Utah Standards of Professionalism and Civility. Discuss the Preamble and all twenty standards. Discuss any "unwritten" customary rules of civility or etiquette among lawyers and judges in the community.
- Discuss ethical issues that arise with some regularity in the practice setting. Discuss ways to resolve the issues, referring to experience, as well as the Rules of Professional Conduct. Include in the discussion the importance and use of an in practice or firm conflict resolution committee. Review and discuss the importance of and methods used to screen for potential conflicts. Discuss the differences between issue conflicts and client conflicts.
- Discuss the process and importance of responding to Bar complaints and requests for information from the Office of Professional Conduct.

#### Mentoring Guides and Resources

Required Section 2 Mentoring Guide

Conflicts of Interest- General Mentoring Tips

#### REQUIRED SECTION 3: LITIGATION AND TRANSACTION HANDLING EXPERIENCES. (SELECT AT LEAST 10)

The new lawyer is required to accomplish at least ten (10) of the following experiences in Litigation and Transaction Handling. At least four (4) of the ten (10) experiences must satisfy the Required Practice Experience section detailed below. The experiences in this section are intended to give all new lawyers an opportunity to receive cross-training and exposure to areas of practice beyond their usual work.

Up to four (4) of the selected experiences may be accomplished during law school in a credit-earning externship; a law school clinical program; a simulated skills course; a mock trial course or competition; or a supervised Pro Bono case. See pages 19-20 of the Guidelines and FAQs in the New Lawyer Training Program Manual for information about receiving credit for experiences accomplished during law school.

#### Required Practical Experience—Choose Four (4)

During the year, the new lawyer must have at least four (4) practical experiences that are observed/checked by the mentor or another member of the Utah State Bar. The new lawyer should be in an active, not observational, role for these specific experiences. The mentor should provide feedback based on the new lawyer's performance. The new lawyer should choose four (4) separate practical experiences from the following list:

- □ Participate in a clinic held by the Utah State Bar, such as the Family Law Clinic, Expungement Clinic, Tuesday/Thursday Night Bar, Wills for Heroes, Pro Se Calendar, etc.
- Take on a pro bono case with the mentor as co-counsel or in an advisory role through the Utah State Bar. If the mentor is not counsel of record with a proper engagement letter and fee agreement in place, then the new lawyer should either (1) obtain informed consent/waiver from the client that allows the mentor to be involved in the case, or (2) ensure that all information learned during the representation remains confidential and privileged. If the latter, the new lawyer should speak in generalities or hypothetical terms, or redact or otherwise remove identifying, confidential information. Please refer to Utah Rule 14-808.
- □ Participate in a CLE that provides practical experience, such as Young Lawyer Division's Litigation 101 series or the Litigation Section's Trial Skills Academy.



#### Required Experiences- Continued from Previous Page

- Have the mentor review and provide feedback on three (3) written products drafted by the new lawyer, such as motions, proposed orders, letters to opposing counsel, in-depth email correspondence to opposing counsel, in-depth letters to clients, etc. If possible, the new lawyer should redact or otherwise remove identifying, confidential information. Please refer to Utah Rule14-808.
- □ With the client's permission and signed waiver, have the mentor sit in on an in-office meeting that is run by the new lawyer.
- ☐ With the client's permission and signed waiver, have the mentor sit in on a mediation that is run by the new lawyer.
- □ With the client's permission and signed waiver, have the mentor sit in on a hearing that is run by the new lawyer.

The new lawyer and mentor can create other practical experiences for the new lawyer that satisfies this requirement, so long as the activity is presented to the New Lawyer Training Program Director and approved; the activity is run by the new lawyer; and the mentor is present and able to provide feedback afterwards.

The new lawyer can turn one of the experiences listed below ("Additional Experience" Section) into a practical experience that would satisfy this "Required Practical Experience" Section so long as the activity is run by the new lawyer and the mentor is present and able to provide feedback afterwards.

#### Additional Experience—Choose Six (6)

- □ Participate in drafting a fee agreement for a client.
- Participate in a deposition of a witness or adverse party in a civil action.
- Participate in a trial in a civil or criminal case in either a state or federal court. (Cross-reference with Elective Section A)
- □ Participate in an evidentiary hearing in a state or federal court.
- Observe or participate in a mediation or arbitration.
- Observe or participate in a negotiation and explain relevant background context.

#### Continued on Next Page

#### Additional Experiences Continued Participate in the interviewing of a client. Participate in the counseling of a client. Prepare a complaint and a summons. (Cross-reference with Elective Section E) Participate in trial preparation and observe or participate in a trial. Participate in or observe an appellate argument in the Utah Supreme Court, Utah Court of Appeals or in a Federal Appellate Court. (Cross-reference with Elective Section A) Participate in plea negotiations or reviewing a plea agreement. Participate in drafting and reviewing wills and revocable living trusts. Participate in drafting and reviewing initial probate documents. Participate in forming business entities by drafting and reviewing incorporation documents and business agreements. Participate in preparing settlement documents, including a discussion of any tax implications in a settlement including a monetary award. Participate in an administrative hearing. Participate in drafting, amending, or reviewing a contract. Participate in drafting a pleading or motion for an administrative body or a state or federal court. Participate in preparing a client's tax return.

#### End of Required Section 3

# REQUIRED SECTION 4: INTRO TO LAW OFFICE MANAGEMENT

- Tour the mentor's office to demonstrate and explain how the following items of law practice management are used and handled in the mentor's office, if applicable: (discuss these practices if a tour is not feasible.)
  - Time Records. Discuss how to write a time entry that is meaningful to clients, billing partners and, if necessary, a court in a case involving fee awards. Explain realization.
  - □ Discuss best practices and current practices regarding records of client-related expenses.
  - □ Discuss the billing system.
  - Review escrow and trust account rules for handling of client funds, including importance of clearing checks before funds are drawn and authority needed to pay fees from client funds in trust.
  - ☐ Introduce the new lawyer to the filing system.
  - Review and discuss malpractice insurance policy and review the insurance and disclosure forms required annually by the carrier.
  - ☐ Introduce the new lawyer to the document retention plan.
  - ☐ Introduce the calendar and "tickler" or reminder systems.
  - ☐ Introduce the information technology systems.
  - ☐ Introduce the library and research systems.
- Discuss practices to maintain client confidentiality.
- Discuss office conflict of interest procedures.



### Required Section 4 Continued

#### Optional Experiences

- □ Introduce other resources (publications, seminars, equipment, etc.) that a new lawyer might find particularly helpful in his or her work.
- Discuss the roles and responsibilities of paralegals, secretaries, and other office personnel, and how to establish good working relationships with others in the office who are support staff, colleagues, or senior partners.

Optional Focused Product - For solo practitioners, outside mentoring, or non-private practitioners

- Create a business plan
- Draft policies and procedures for a law office

End of Required Section 4

# REQUIRED SECTION 5: WORKING WITH CLIENTS (REQUIRED WHERE APPLICABLE)

#### Required Experiences

- Engage in a training discussion about client interaction, including tips for gathering information about a legal matter and appraising the credibility and trust of a potential client.
- ☐ Train, through discussion and client interaction, how to screen for, recognize, and avoid conflicts of interest.
- Train on using retainer or engagement letters and discuss frequent issues that arise regarding the scope of representation.
- Discuss "DOs and DON'Ts" of maintaining good ongoing client relations, such as returning telephone calls and keeping clients informed about matters.
- Discuss terminating the lawyer-client relationship and necessary documentation.

#### **Optional Experiences**

- Train on how to decide whether to accept a proffered representation.
- Train on how to talk about and set the fee for legal services. Review and discuss retainer agreements.
- Discuss how to deal with a "difficult" client and how to decline representation of the unrealistic or "impossible" client.
- Participate in or observe at least one client interview or client counseling session.
- Review and understand contingency fee agreements and issues to be included.

#### Optional Focused Product

□ Draft or evaluate a client intake form.

#### **Mentoring Guides**

Client Confidentiality

Confidentiality and Potential Clients

General Mentoring Tips



# REQUIRED SECTION 6: IMPLICIT BIAS AND WELL-BEING.

#### Required Section 6: Implicit Bias and Well-Being.

- Discuss the importance of family and life balance, including any billable hour requirements not previously discussed.
- Review and discuss the support and counseling available for the new lawyer and family through the Bar's contract with a professional counseling service and the Lawyers Helping Lawyers Committee.
- Take two of the tests that Harvard has created to test for implicit bias. Discuss the results.

Mentoring Guides and Resources
Required Section 6 Implicit Bias Mentoring Guide

Well-Being Best Practices for Legal Professionals



## ELECTIVE SECTIONS INSTRUCTIONS

The mentor and the new lawyer should choose four of the Elective Sections identified in Sections A through Q. Within each area, select as many activities as feasible.

Under each area chosen, you are encouraged to adjust the activities and experiences to your particular practice setting and individual needs.

The mentor, or another experienced lawyer approved by the mentor, should monitor and facilitate the progress of the new lawyer in fulfilling practice experiences by discussing the context and assessing the activity selected.



# ELECTIVE SECTION A: ADVOCACY AND LITIGATION

- ☐ Attend an appellate argument in the Utah Supreme Court, the Utah Court of Appeals, or a United States Circuit Court of Appeals;
- □ Attend or participate in a hearing on a motion; discuss.
- □ Attend or participate in an oral argument; discuss.
- □ Attend or participate in a trial, including voir dire if a jury trial; discuss.
- Discuss frequent issues that arise in litigation concerning specific Rules of Civil Procedure, and the local rules that apply in either state or federal court.
- □ Participate in 26(f) conference to discuss settlement, discovery plan and initial disclosures.
- □ Discuss the mechanics of trial, including where to stand, proper attire, when to stand, courtroom decorum, judges' bench books, etc.
- □ Participate in drafting discovery requests, including interrogatories, requests for admission and requests for production of documents.
- Participate in preparing for and observing (or taking or defending) depositions.



# ELECTIVE SECTION B: ADR

- □ Review and discuss Utah statutes on mediation including requirement to screen for potential conflict of interest of mediator.
- □ Observe, participate in, or prepare for an actual or simulated mediation.
- □ Observe, participate in, or prepare for, an arbitration and review and discuss AAA rules.
- Discuss how to prepare a client for mediation or arbitration.



# ELECTIVE SECTION C: NEGOTIATION

- □ Discuss how to prepare for the negotiation of a legal matter (e.g., release of a personal injury claim, lease agreement, etc.).
- □ Discuss when and how negotiation should be initiated.
- □ Discuss when and how to involve the client in negotiation.
- Discuss ethical and professional obligations of negotiators.
- Discuss skills needed to be an effective negotiator and how to acquire them.



# ELECTIVE SECTION D: CLIENT INTERVIEWING AND COUNSELING (CROSS-REFERENCE WITH REQUIRED SECTION 5)

- Discuss and review interview techniques (asking the right questions).
- Discuss and review counseling techniques (providing the hard advice).
- □ Simulate and discuss the counseling of a client (mentor and new lawyer should alternate being client and lawyer).
- Participate in interviewing a client.
- □ Participate in counseling a client.



## ELECTIVE SECTION E: CIVIL PROCEDURE

Prepare complaint. Prepare summons. Cause summons to be served. Participate in preparing a Rule 12 motion to dismiss. Participate in preparing answer to complaint, counterclaim, cross-claim and third-party complaint. Participate in 26(f) conference to discuss settlement, discovery plan and initial disclosures. Participate in preparing initial disclosures as required by Rule 26. Participate in preparing for and observing, taking, or defending a deposition. Participate in drafting discovery requests, including interrogatories, requests for admission and requests for production of documents. Participate in identifying expert witnesses and producing expert witness reports. Participate in depositions including the deposition of expert witnesses. Participate in preparing motions and memoranda in support of summary judgment.

Participate in preparing pretrial order and making pretrial disclosures of witnesses and exhibits.



# ELECTIVE SECTION F: CRIMINAL PROCEDURE

Participate in client interview.
Participate in charge negotiations with prosecutor's office.
Participate in discovery demands on prosecutor, including request for exculpatory materials.
Participate in engagement of private investigator to interview witnesses.
Review information or indictment for constitutional and/or pleading defects.
Research elements of crime charged or under investigation; discuss.
Review and discuss pretrial diversion requirements.
Review and discuss plea in abeyance statute in a particular case and study applicable statute.
Review and discuss criteria for a one- or two-level reduction of offense in a particular case and study applicable statute.
Participate in discussions with Pretrial Services (bail).
Participate in editing Statement by Defendant in Advance of Plea.
Observe and/or participate in trial.
Observe and/or participate in entry of plea in court.
Review and discuss Presentence Report; participate in filing objections.
Research and participate in analysis of federal sentencing guidelines in particular federal case.



## ELECTIVE SECTION G: ESTATE PLANNING

#### Participate in drafting and reviewing at least six of the following:

- □ Wills.
- □ Revocable living trusts: tax planning.
- □ Revocable living trusts: non-tax planning.
- Revocable living trusts: generation skipping tax planning.
- □ Irrevocable trusts.
- □ Durable powers of attorney.
- □ Special powers of attorney for health care.
- ☐ Directives to physicians (living wills).
- ☐ Life insurance trusts.
- ☐ Transfer of ownership documents: quit-claim deeds.
- ☐ Transfer of ownership documents: assignments.
- □ Assist in gathering and organizing client information.
- Prepare diagrams of specific estate plans for clients.
- □ Prepare estate planning binders for clients.
- □ Prepare Crummey notices for life insurance trusts.



# ELECTIVE SECTION H: PROBATE

- □ Prepare notice to creditors and arrange for publication.
- □ Prepare inventory of estate.



## **ELECTIVE SECTION I: FAMILY LAW**

- □ Review and discuss the Rules of Civil Procedure specific to Family Law.
- □ Understand the role of a Domestic Relations Commissioner. Meet as many commissioners as possible.
- □ Review Rule 26.
- Create a child support worksheet.
- □ Observe hearing on motion for temporary orders.
- Observe or participate in custody evaluation settlement conference if permission is granted.
- □ Participate in a <u>collaborative law</u> meeting if permission is granted.
- □ Participate in a mediation if permission is granted.
- Observe or participate in a family law trial.
- □ Participate in preparing a premarital agreement or review and discuss statutory requirements, case law, and necessary terms of premarital agreements.



# ELECTIVE SECTION J: JUVENILE LAW

- Attend or participate in a shelter hearing.
- Attend or participate in a disposition hearing.
- ☐ Discuss the standards for removal with a Department of Child and Family Services (DCFS) worker.
- □ Discuss the role of a juvenile Guardian ad Litem; introduce where possible.
- ☐ In a Juvenile delinquency case, observe, participate in, or discuss:
- A detention hearing
- ☐ The role of a probation officer in detention cases
- ☐ An arraignment
- A pre-trial
- □ A trial



# ELECTIVE SECTION K: BUSINESS LAW

Participate in forming business entities by drafting and reviewing at least three of the following:

- □ Bylaws.
- ☐ Articles of incorporation.
- □ Articles of organization.
- □ Operating agreements.
- □ Partnership agreements.
- Corporate minutes and resolutions.

Participate in drafting and reviewing at least three of the following:

- □ Shareholders' agreements.
- □ Buy-sell agreements.
- □ Stock purchase agreements.
- ☐ Asset purchase agreements.
- □ Noncompetition agreements.
- Security/collateral agreements.
- Promissory notes.

Participate in the due diligence process for mergers and acquisitions.

Prepare UCC filings.



# ELECTIVE SECTION L: TAX LAW

- □ Prepare and analyze tax calculations.
- □ Participate in preparing certain IRS tax forms, including the following:
- □ Form 2553 (S Corporation Election).
- □ Form 709 (Gift Tax Return).
- □ Form 706 (Estate Tax Return).
- □ Form 1041 (Income Tax for Trusts).



# ELECTIVE SECTION M: REAL ESTATE LAW

- □ Search a title at Recorder's Office.
- Participate in drafting and reviewing at least four of the following:
- □ Real estate purchase agreements.
- Deeds of trust.
- Mortgages.
- □ Commercial leases.
- Residential leases.
- Notice of Default on the above.



# ELECTIVE SECTION N: EMPLOYMENT LAW

- Review and discuss the UALD/EEOC administrative process. Review or participate in drafting a charge or the response to a charge.
- □ Prepare for and participate in the UALD/EEOC administrative process, including a resolutions conference or an appeal to the Labor Commission.
- Participate in drafting a separation or settlement agreement.
- □ Participate in consultation with management on HR issues.
- Prepare for and observe or participate in an unemployment benefits insurance appeal hearing.
- Review and discuss an ongoing employment law issue, such as a claim under Title VII, the Family Medical Leave Act, the Americans with Disabilities Act, or other substantive federal law or its state counterpart.



# **ELECTIVE SECTION O: PATENT LAW**

- □ Observe or participate in a client interview.
- □ Participate in patent search/evaluation.
- Participate in drafting and filing a patent application.
- □ Participate in filing an Information Disclosure Statement (IDS).
- ☐ Discuss and review techniques for successful patent prosecution.
- ☐ Participate in a telephone conversation with an Examiner.
- Participate in drafting an Office Action response.
- Participate in preparing and drafting an appeal brief.
- ☐ Participate in patent litigation.



#### ELECTIVE SECTION P: TRADEMARK LAW

- □ Observe or participate in a client interview.
- □ Participate in trademark search/evaluation.
- Participate in drafting and filing a trademark application.
- Participate in drafting an Office Action response.
- □ Participate in preparing and drafting an appeal brief.
- □ Discuss and review techniques for successful trademark prosecution.
- □ Participate in trademark litigation.
- Participate in drafting and filing a copyright application.



# OTHER POSSIBLE ELECTIVES **SECTION Q (1-17)**

There are other substantive areas of the law not included above and so you are free to prepare a plan and your own check-off sheet as required. This list includes some, but not all, possible electives. Sample activities have been provided where available.

- Administrative law Merger and acquisition law - Sample Activities Securities law - <u>Sample Activities</u> Constitutional law Bankruptcy law - Sample Activities
- Immigration law Sample Activities Environmental law and compliance
- Health care law Antitrust law
- Ethical leadership in corporate practice Water law (audit committees, Sarbanes Oxley, Oil, gas, and mining law - Sample Activities corporate monitors) - Sample Activities
- Public utilities law Lobbying requirements, ethics and state Contract law - Sample Activities legislative process.
  - Construction Law Sample Activities
  - Criminal Defense Sample Activities
  - Municipal Law Sample Activities

- Personal injury law, including products liability - Sample Activities
- Insurance defense law, including coverage analysis



# COMPLETE PLAN ACKNOWLEDGMENT AND GOALS

After you have finalized your mentoring plan, you will need to submit your Plan Acknowledgment and Goals through your account on the NLTP Web Platform.

The Plan Acknowledgment is a summary of your mentoring plan, so you will simply select the boxes for the required sections and the electives you will be completing.

You will also be asked to enter three goals towards which you and your mentor will work to meet over the course of your term. When formulating your goals, put some thought into what you hope to get from your time in the program. Focus on how you can use the NLTP to sharpen your current skills and expand your base of knowledge in different areas of the law, which will serve you well in the future.