

February 2010

**Legal Services NYC Standards
for Legal Supervision**

INTRODUCTION

LSNYC supervising attorneys are leaders, teachers and facilitators. They are responsible for shaping and communicating the vision of the organization and enhancing its ability to do high quality, significant work. Their role encompasses a variety of functions, including being a spokesperson for their unit, program, and practice areas, ensuring a diverse and competent staff, fundraising, grant administration and reporting, outreach to the community and community groups, forming and participating in coalitions, coordinating trainings and ensuring professional development of staff, and carrying a caseload and participating in complex litigation, as well as direct supervision of legal work.

Supervision of legal work is especially challenging because it must be done along with other critical tasks, all of which are necessary to maximize the effectiveness and impact of our work for clients. Supervisors are expected to:

- Engage in and expect advocacy staff to engage in systemic litigation and advocacy, and ensure that staff are given the time needed to develop and engage in this kind of work.
- Develop and expect advocacy staff to develop working relationships with community based organizations or other advocacy or service organizations in their area of practice, and ensure that staff are given the time needed to develop these kinds of relationships.
- Work with advocacy staff to set priorities on a periodic basis and to ensure that the unit and staff are organized to address prioritized service needs.
- Collaborate with other supervisors and advocacy staff in their practice area throughout LS-NYC and the greater poverty advocacy community and encourage and expect staff to do the same.
- Participate in trainings, task force and other meetings of advocates to advance the advocacy work in their areas of expertise and expect their staff to do the same.

This document addresses one key component of our role: supervision of legal work. Capable and thorough supervision is essential to ensure that we deliver high quality legal services to our clients, foster the professional development of all staff, apply fair and consistent standards, adhere to ethical rules and expectations, and meet our grant and administrative requirements. Supervision standards address these goals

by clarifying minimum expectations of both supervisors and case handlers, ensuring regular communication with case handlers, establishing a framework for the supervision of legal work, and facilitating accountability throughout LSNYC.

The standards contained in this document are minimum standards designed to provide supervisors with a baseline for their supervision. While exemplary supervision consists of more than compliance with quantifiable standards, compliance with quantifiable standards will improve the effectiveness and consistency of our supervision. These standards are not intended to be limiting, or to prevent supervisors from implementing more rigorous standards in their units. Supervisors are encouraged to implement a "best practices" approach in their supervision.

The New York Rules of Professional Conduct impose on supervisors two requirements of particular import to these standards. First, the Rules require supervisors to provide supervision for their case handlers that is "reasonable under the circumstances, taking into account factors such as the experience of the person whose work is being supervised, the amount of work involved in a particular matter, and the likelihood that ethical problems might arise in the course of working on the matter."¹ Second, the Rules require supervisors to make "reasonable efforts to ensure" that case handlers conform to the ethics rules.² The standards in this document are designed to help supervisors fulfill their ethical responsibilities under the Rules, but they are not intended to replace supervisors' knowledge of or compliance with the Rules.³

Because supervision is time-consuming and of central importance, project directors will help supervisors adjust their caseloads and other responsibilities so that they can competently supervise their case handlers in accordance with these standards.

STANDARDS

1. Availability of Supervisors

Supervisors will manage their own schedules and limit their caseloads to ensure that case handlers have sufficient access to supervision and support. In addition to scheduled meetings, supervisors will informally discuss cases and office issues with case handlers on a regular basis. Supervisors will have a protocol known by all for handling emergencies when they are unavailable.

¹ NYRPC Rule 5.1(c) (April 1, 2009).

² NYRPC Rule 5.1 (b)(2) (April 1, 2009).

³ If at any time in the future the New York Rules of Professional Conduct, any relevant statute, case law, LSC regulation or any other regulating document imposes a stricter supervision standard than is incorporated in these standards, the stricter standard applies.

2. **Case Acceptance**

Supervisors will review cases to ensure that their unit's case acceptance priorities and protocols are being followed. Supervisors are responsible for ensuring that case handlers are aware of their unit's case acceptance priorities and protocols.

3. **Supervisory Meetings and Case Reviews**

Meetings with case handlers will be scheduled on a sufficiently regular basis to enable supervisors to oversee each case handler's work, but no less than once every two months. The frequency and content of these meetings will depend on the experience of the attorney, with new case handlers⁴ receiving more frequent meetings and more thorough case reviews. Appropriate subjects of discussion may include any of the following: review of cases, new intakes and case acceptance decisions, non-litigation advocacy work, progress in professional development, and caseload control.

For the case review portion of supervisory meetings, supervisors will select some portion of the case handler's cases and for each selected case discuss the theory of the case, the legal strategy, planned case activities and timelines, and upcoming court appearances. Supervisors will also discuss non-litigation strategies and alternative methods of dispute resolution. Supervisors should organize the review of cases so that a case handler's entire caseload is reviewed at least once over the course of a six-month period. Supervisors may use their judgment to determine the scope of the review.

4. **Client Interviews**

Supervisors will arrange for new case handlers to observe client interviews conducted by experienced attorneys or paralegals. Supervisors will observe client interviews conducted by the case handlers, both on initial intake and during the course of representation until an appropriate level of competency is reached. Supervisors will provide case handlers with constructive feedback on the observed client interviews.

5. **Case Plans**

Upon acceptance of a case for representation, supervisors will ensure that new case handlers develop a case plan which shall include the following information: causes of action or defenses, a statement of the theory of the case, statute of limitations and all deadlines, and a plan of action for the case. Supervisors shall ensure that new case handlers timely update the case plan so that it reflects the current status of the case. Supervisors will ensure that more experienced case handlers prepare case planning

⁴ The term "new case handler" includes any case handler who is new to LSNYC, new to a practice area, new to the particular office or new to handling cases. For purposes of this document, the case handler is considered "new" for a period of six months.

memos for complex cases. Supervisors are responsible for determining which types of cases are sufficiently complex to require a case plan.

6. **Retainers and Administrative Documentation**

Supervisors shall implement a system to ensure that all appropriate and necessary documentation is maintained in the client's case file, including any documents necessary to comply with program and grant requirements. This shall include a completed retainer agreement signed by the client and the case handler. This shall also include a completed citizenship statement and other information showing that the client is eligible for our services.

7. **Case Documentation and File Maintenance**

Supervisors shall implement a protocol for file maintenance that incorporates both paper and electronic case documentation. To the extent a unit uses electronic files in lieu of paper files, the file maintenance protocol must specify how electronic files shall be maintained.

The protocol must provide that each case file contains (1) records of all significant communication (including e-mail) and actions pertaining to the case, in chronological order; (2) documentation of all factual investigation and legal research conducted and relevant results; and (3) all relevant correspondence, primary documents, and litigation papers. The protocol must also provide that files are organized systematically for ready reference. Supervisors are responsible for ensuring compliance with the protocol by the supervisees.

8. **File Review**

Supervisors shall conduct a paper or physical file review for all case handlers at least once a year. The file review must involve a sampling of at least 25% of the case handler's case files or 20 case files, whichever is lower. The files to be sampled from are those that are open at the time of the review.

9. **Written Work**

Supervisors will review all written work of new case handlers, including letters, pleadings, briefs and memos, community education materials, proposed legislation, testimony, and other policy documents until an appropriate level of competency is reached. As soon as the supervisor is assured that the supervisee has the requisite level of competency, the supervisor may stop reviewing routine documents; it is expected that this will be a graduated process, depending on the experience of the case handler and the complexity of the document.

For all case handlers, including experienced attorneys, all appellate briefs and any complex or unusual pleadings, memos, briefs, demand letters or policy documents

should be reviewed at least once, either by the supervisor or by another experienced attorney under the direction of the supervisor.

10. **Discovery and Trial Preparation Plans**

Supervisors will implement a protocol for handling cases that require discovery or are likely to go to trial. This protocol shall include at a minimum a written discovery plan and/or trial preparation plan. An appropriate discovery or trial preparation plan will include an outline of substantive and procedural next steps and a timetable for completing the steps.

11. **Court Appearances and Observation**

Supervisors will ensure that a centralized calendar for scheduled court appearances is maintained and that all case handlers use it consistently. Supervisors will have a protocol for ensuring coverage of court appearances in the event of a case handler emergency.

Supervisors will observe new case handlers in court or administrative hearings until an appropriate level of competency is reached. For practice areas with various advocacy forums (e.g., in different courts or in administrative hearings), supervisors will observe each of the types of proceedings, if possible. As soon as the supervisor is assured that the supervisee has reached the requisite level of competency in a particular type of proceeding, the supervisor may stop attending such hearings. For each observation, the supervisor shall give the supervisee constructive feedback. Additionally, supervisors will provide new case handlers with opportunities to observe and/or second seat more experienced practitioners. More experienced case handlers will be observed from time to time as appropriate, but no less than once a year, so that they may continue to receive useful feedback.

Supervisors are responsible for ensuring that case handlers are properly prepared and ready to proceed in court or administrative proceedings. For contested or atypical matters, including significant motions and appellate arguments, supervisors will ensure that case handlers are properly prepared and mooted, and will observe such proceedings until assured the supervisee has reached the requisite level of competency.

12. **Supervising Relationships**

Supervisors shall treat their staff with respect and professionalism at all times and shall possess cultural competency skills so they can properly supervise diverse staff. Supervisors must intervene to address conflicts that may arise between staff in a professional, constructive way that best preserves both the dignity of the individuals involved and the reputation of the program.

Supervisors shall ensure that case handlers treat the clients of the office with respect and dignity, paying special attention to cultural differences and the clients' individual needs. Supervisors must intervene to address conflicts that arise between clients and case handlers in a professional, constructive way that best preserves both the dignity of the individuals involved and the reputation of the program.

13. **Non-Litigation Advocacy**

Supervisors will guide and oversee the planning and development of non-litigation advocacy undertaken by the unit, including policy, legislative and community education work. Supervisors will provide new case handlers with opportunities to observe more experienced practitioners conducting non-litigation advocacy activities, such as outreach, training, drafting and providing legislative testimony, and meetings. Supervisors will observe new case handlers conducting these activities until an appropriate level of competence is reached.

14. **Evaluations**

Supervisors shall provide performance evaluations to all case handlers under their supervision in accordance with the evaluation standards adopted by LSNYC.

15. **Unit Meetings**

Supervisors will hold at least monthly unit/practice area meetings to discuss such topics as intake, case and project assignments, difficult cases and new issues in ongoing representation, developments in the field, project goals and planning, grant administration and other administrative issues, and other developments of common interest.

16. **Professional Development and Training**

Supervisors will participate in CLE courses and take advantage of opportunities to update their knowledge of the law in the practice areas they supervise. Supervisors will share with their case handlers information regarding new developments in their areas of practice, resources available to case handlers for professional development, and information that would help case handlers provide quality representation and referrals to clients.

Supervisors will foster the professional development of their case handlers, encouraging them to take on new challenges and supporting them in their efforts. When possible, supervisors will provide case handlers with opportunities for co-counseling and other joint work with more experienced case handlers on more complex cases. Supervisors will also ensure that case handlers receive the requisite training to develop their skills and legal knowledge, and ensure compliance with the ethics standards.