Ethical Issues for Attorneys Working with Self-Represented Litigants

NEW LEGAL SERVICES DELIVERY SYSTEMS
NEW PROFESSIONAL RESPONSIBILITY DILEMMAS

Issues Facing Attorneys Who Assist *Pro Per* Litigants: Is a New Code of Ethics or are New Ethical Standards Necessary?

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PREFACE

The increase in *propria persona* ("pro per") litigation in addition to the traditional delivery of legal services through the representational/advocate model has created the need for a new legal practitioner. More and more legal service providers are evolving into non-traditional, non-representational, non-adversarial attorneys and non-attorneys and as such face issues not envisioned by the existing Rules of Professional Conduct and not addressed in the law of professional ethics.

As the traditional delivery systems for legal services evolve in response to the marketplace demands of the 21st Century, the ethical issues and governing professional responsibility standards that address the manner in which legal services have been delivered for the past two hundred years no longer achieve their intended purpose. Further, the standards that apply may differ as the nature of the provider (governmental vs. private; court vs. traditional legal service provider), the type of services provided (advocacy vs. advice), and the capacity of the individual providing the services (attorney vs. non-attorney, court employee vs. legal service employee) change and evolve.

Do the "canons" upon which the existing Rules of Professional Conduct are based adequately address these issues? Do we need a new articulation of those "canons" in new rules? Do we need new "canons"? How should these " canons" address the traditional role of the legal services advocate and the emerging role the court is undertaking in providing access to justice? Are there core "canons" or "values" that we can identify which can serve as the foundation upon which informed access to legal assistance for the general public, protection of the public in the rendition of legal services, and the role of the legal profession in the administration of justice can be established and preserved in an integrated and effective fashion?

> *" Today, access to justice for poor Californians is at best an unfilled promise and at worst a cruel hoax. * * * Recent legal needs studies have quantified the wide gap between the ideal of equal justice for all and the*

reality of no justice for many in California and the rest of the nation. Studies by the American Bar Association and bar associations in at least 15 states demonstrate that approximately three out of four poor people who have a legal problem will not receive legal assistance."

> *And Justice for All, Fulfilling the Promise of Access to Civil Justice in California,* Office of Legal Services, State Bar of California, Access to Justice Working Group (July 1996).

"As California Bar members view the future, the picture they see is far from rosy: a court system struggling to deal with increasing demands from the public in the face of declining financial resources; a public increasingly aware of legal remedies for its problems but without the wherewithal to pay for legal services; and a profession struggling to deal with the challenges posed by growth and social change."

> *California Lawyer View the Future: A Report to the Commission on the Future of the Legal Profession*, Rand Corporation (1994).

"The delivery of legal services in the United States faces unprecedented challenges. Revolutionary advances in technology and information sharing, the globalization of the capital and financial service markets, and more expansive government regulation of commercial and private activities have reshaped client demands for legal advice and advocacy."

> American Bar Association Commission on MultiDisciplinary Practice Background Paper on MultiDisciplinary Practice: Issues and Developments (January 1999).

*"It is 2020. * * * The single California trial court that came into being in the mid-1990's has evolved almost beyond recognition: it is a true, "multidimensional" public justice system. No longer merely 'multidoor', its approach to dispute resolution represents complementary, mutually supporting relationships among the third branch, other government agencies, and the private sector. * * * The paradigm shift in justice is not merely the product of new structures and processes. It is also the result of better informed disputants, lawyers wearing hats other than the traditional adversary ones, court personnel playing new roles, and new ways of sequencing and managing the resolution process."*

> *Justice in the Balance 2020*, Report of the Commission on the Future of the California Courts (December 1993).

*" * * * [A]lthough it is legitimate to consider modifications to the professional rules governing the traditional forms of practice by which consumers of legal services are served by the legal profession as we enter the new millennium, any such changes must be carefully and thoroughly considered to assure that a firm infrastructure exists to support the success of any such changes * * * "*

The State Bar of California Report with Recommendations to the ABA House of Delegates on MultiDisciplinary Practice (August 1999).

*" * * * [T]he core values of the legal profession, including competence, independence of professional judgement, protection of confidential client information, loyalty to the client through the avoidance of conflicts of interest, and pro bono publico obligations [must be preserved]."*

American Bar Association Commission on MultiDisciplinary Practice, Draft Recommendation to the ABA House of Delegates scheduled for July 2000.

"Some lawyers will be visionaries for change, others will resist it and still others will have it wash over them. The legal profession is a mosaic of its members; it is also a microcosm of society replete with differing subgroups, differing perspectives, and differing interests and objectives."

Final Report of the Commission on the Future of the Legal Profession and the State Bar of California, State Bar of California, (April 1995).

SELECTED ISSUES

I. Defining the Scope of Services to Be Delivered

If the service provider is not "representing" the "customer", does the service provider advise the "customer" of this? How does the service provider define the scope of the services provided?

Is a written disclosure sufficient? Is written consent required?

Must the service provider assure that the "customer" understands the disclosure? How can this be accomplished?

What if the service provider offers both "representational" and "non-representational" services? When does a "customer" become a "

client"?.

Resources: Business and Professions Code Section 6147, 6148
Nichols v. Keller (1993) 15 Cal.App.4th 1672 [the scope of representation may be limited]
Formal Opinion No. 502, Los Angeles County Bar Association Professional and Ethics Committee (November 4, 1999)]
Disclosure Forms

II. Attorney- Client Privilege/Confidentiality/Privacy

Does the Attorney-Client privilege apply?
If not, is the " customer" entitled to a " confidential" relationship nevertheless"?

What does the service provider do when the " customer" provides information of a confidential nature that would be privileged if an attorney-client relationship existed?

If private information is relevant and material to the proceeding before the court, does the service provider provide it to the court?

If there is no confidential relationship, are the records and files of the service provider subject to discovery? Can the service provider be compelled to testify regarding their discussions with the "customer"?

Resources: Rule 5-120, Rules of Professional Conduct [Member as Witness]
Evidence Code Sections 950 *et seq.*
Business & Professions Code Section 6068(e)
Family Code Section 10013

III. Impartiality v. Advocacy

What is the appropriate role of the court-employed facilitator? Do they advocate or simply educate?

Where does education end and advocacy begin?

Is the ultimate duty to the "customer" or to the court?

If the court errs, is it education, advocacy or disloyalty to the court for a court-employed facilitator to "advise" the "customer" to use an established appeal process to challenge the court?

Is there a difference between " informing" a " customer" of an appeal process and "advising" a "customer" to pursue an appeal?

How does the court-employed facilitator respond to the court itself when the bench officer asks the facilitator what the "real story is," or seeks a suggestion as to what the outcome should be?

What is the advocacy role of the non-court system self-help provider?

What role, if any, does the court-employed facilitator and self-help provider have in the courtroom during a hearing before the court?

How can a service provider and a delivery system maintain impartiality when the service provider is assisting both sides simultaneously. For example, a service provider assists an alleged victim in a domestic violence case and the next day the alleged batterer seeks help from the same service provider. Are there steps that can be taken to insure that both parties receive the same level of assistance? What if the evidence clearly supports the victim's case? What if the batterer threatens the victim in your presence?

Resources: Business and Professions Code Section 6068, 6068(b)
Family Code Sections 10013, 10015
Cannon 1, Code of Judicial Ethics [Upholding the Independence of the Judiciary]

IV. Education v. Advice

Do court-employed facilitators and self-help providers "advise" or simply " educate"? What is the difference? Does it matter?

How does a service provider respond to a "customer" who asks "help me, tell me what I should do?"

Resources: John M. Greacen, The Distinction Between Legal Information and Legal Advice, Developments Since 1995
Family Law Code Sections 10004, 10013
Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542 [legal advice consists of counsel and the preparation of documents by which legal rights are secured]
People v. Landlords Professional Service (1989) 215 Cal.App.3d 535, 542 [legal advice consists of consultation, explanation, recommendation or other assistance in selecting particular forms, filling out those forms, or

suggesting or advising how form should be used in addressing particular legal needs]

V. Conflicts of Interest

If the service provider is not "representing" the "customer", is there ever an opportunity for a conflict of interest to arise?

Is there a conflict of interest when the service provider has, in a past attorney-client relationship, represented the " customer" seeking assistance? What if the service provider has previously represented the other side?

Are disclosures and consents required? Advisable?

Do conflict of interest concerns matter to those in need of self-help or court facilitated assistance?

In small counties or small towns where there are very limited free or low cost legal services, should a "customer" be denied service when there is no "unconflicted" service provider available?

Resources: Rule 3-310, Rules of Professional Conduct [Avoiding the Representation of Adverse Interests]
Proposed Rule 6.5 [Non-Profit and Court-Annexed Limited Legal-Service Programs] - Public Discussion Draft, Ethics 2000 Commission

VI. Addressing the Appearance of Impropriety

How do service providers located in the court or operating under the auspices of the court, avoid appearing to opposing parties and counsel as having special influence with the court?

How do service providers associated with the court and the judicial system avoid appearing to the public as having special influence or being partisan?

Resources: Cannon 2, Code of Judicial Ethics [Avoiding the Appearance of Impropriety]

VII. Duty of Candor

Do service provider attorneys working in the court system, under the

supervision of the court, have the same duties, lesser duties, greater duties to the court as attorneys providing self-help or *pro per* assistance not as part of the court? As traditional advocates?

Do self-help providers have a duty to disclose to the court that they are providing assistance to a pro per litigant?

What is the duty of the service provider when he/she learns that the " customer" is providing false information to the court?

Resources: Rule 5-200, Rules of Professional Conduct [Trial Conduct]
Rule 5-220, Rules of Professional Conduct [Suppression of Evidence]
Business and Professions Code Sections 6068(b, d); 6128(a)
Cannon 1, Code of Judicial Ethics [Upholding the Integrity of the Judiciary]

VIII. Ex Parte Communications

What contacts are appropriate between a service provider assisting a " customer" and the opposing party when that party is unrepresented? When that party is represented by counsel?

What contacts are appropriate between the service provider and witnesses the "customer" may have present?

For service providers working in the court system, what communications with the court are appropriate? What if the court directs the court-employed facilitator to obtain specific information and gives specific instructions for the assistance to be given litigants in an ex-parte communication?

What if the court-employed facilitator is asked to report back to the bench officer on an ex-parte basis?

Do different standards apply to court employed service providers as opposed to non-court employed self-help providers and traditional advocates?

Resources: Rule 2-100, Rules of Professional Conduct [Communication with a Represented Party]
Rule 5-300, Rules of Professional Conduct [Contact with Officials]
Rule 5-310, Rules of Professional Conduct [Prohibited

Contact with Witnesses]

IX. Competency

Is the duty of the court employed facilitator to provide correct and current information the same or less than the duty of an representational advocate?

Is the duty of the non-court employed self-help provider greater or lesser than that of the court employed facilitator? Of the representational advocate?

Is there a duty to "advise" the "customer" that they need an "advocate" and should get a representational attorney?

Is there a duty to "advise" the "customer" of the future consequences of the actions they are taking?

Is there a duty to maintain files and records for the benefit of the " customer"? What is the appropriate response to a traditional representational advocate recently employed by a former " customer" when the advocate requests the " file" that is now critical to the representation of the advocate's "client"?

Resources: Rule 3-110, Rules of Professional Conduct [Failing to Act Competently]
Rule 3-500, Rules of Professional Conduct [Communication]
Rule 3-700(D), Rules of Professional Conduct [Termination of Employment]
Beery v. State Bar (1987) 43 Cal.3d 802, 811 [when an attorney provides legal services, even informally and without payment, the duties of the attorney-client relationship attach]
Libarian v. State Bar (1943) 21 Cal.2d 862, 865 [one who is licensed to practice law must conform to the standards of an attorney in whatever capacity he/she may be acting]
Gada v. State Bar (1990) 50 Cal.3d 344 [the duty to act competently includes the duty to supervise subordinates]

X. Liability/Immunity

What liabilities do court employer service provides have to "customers"?

What liabilities do non-court self help providers have?

Do court employed service providers have the immunities which benefit the court system?

Resources: Rule 3-400, Rules of Professional Conduct [Limiting Liability to Client]
Nichols v. Keller (1993) 15 Cal.App.4th 1672 [
Family Code Section 10013

XI. Unauthorized Practice of Law

Are attorneys working as court-employed service providers " practicing" law?

Is the court "practicing" law through court facilitation?

Are non-attorney court-employed service providers "practicing" law?

Are non-court-employed self-help providers (attorneys and non-attorneys) " practicing" law?

Resources: John M. Greacen, The Distinction Between Legal Information and Legal Advice, Developments Since 1995
Rule 1-300, Rules of Professional Conduct [Unauthorized Practice of Law]
Business and Professions Code Section 6125 et seq.
Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542 [legal advice consists of counsel and the preparation of documents by which legal rights are secured]
People v. Landlords Professional Service (1989) 215 Cal.App.3d 535, 542 [legal advice consists of consultation, explanation, recommendation or other assistance in selecting particular forms, filling out those forms, or suggesting or advising how form should be used in addressing particular legal needs]

DRAFT

Title	Guidelines for the Operation of the Family Law Information Centers (adopt Standard 40)
Summary	This proposal establishes ethical guidelines for the operation of the three family law information centers in accordance with the Rules of Professional Responsibility, as required by Family Code section 15010(f).
Source	Family and Juvenile Law Advisory Committee
Staff	Michael A. Fischer 415-865-7685 Bonnie Hough 415-865-7668.
Discussion	Family Code sections 15000 – 15012 established three pilot family law information centers to be administered by the Judicial Council for the purpose of providing information to unrepresented low-income family law litigants. The family law information centers provide information as to the nature of various types of relief available through the family court, what pleadings are required to be filed to obtain that relief, how to enforce court orders and what requirements exist for proper service of court papers. The centers also provide assistance in preparing orders after court proceedings, and referrals to community resources. The centers also encourage parties to seek legal advice and assistance from an independent attorney. Family Code section 15010(b)(2) requires that the information centers shall be supervised by an active member of the State Bar in good standing. However, Family Code section 15010(g) provides that "The family law information center shall not represent any party. No attorney-client relationship is created between a party and the family law information center as a result of any information or services provided by the family law information center pursuant to subdivision (c)." Family Code Section 15010(f) states that "The Judicial Council shall promulgate guidelines for the operation of the family law information center in accordance with the Rules of Professional Conduct." These are the proposed guidelines.

	Given the statutory limitations on the nature of the services provided and the specific role of the centers as an arm of the superior court, the principles set forth in the California Code of Judicial Conduct are often more applicable to the centers than are the Rules of Professional Conduct. The committee is particularly interested in comments regarding whether these guidelines should be extended to 1) Family Law Facilitator programs and 2) other court-based, self-help centers that structure their service so as not to form an attorney-client relationship with litigants.

Section 40 of the California Standards of Judicial Administration would be adopted effective January 1, 2002 to read:

§ 40. Guidelines for the operation of family law information centers

(a) Guidelines:

(1) (*Independence and integrity)* An attorney and other staff working in a family law information center must, at all times, uphold the independence and integrity of the center in conjunction with its role within the court and the legal system.

(2) (*Role as representative of the court*) An attorney and other staff working in a center must recognize that they are representatives of the court and, as such, must avoid all acts of impropriety or the appearance of impropriety at all times.

(3) (*Impartiality and diligence)* A center attorney must perform his or her duties impartially and diligently. Impartiality includes not giving information to a party for the purpose of giving one party an advantage over another. In addition, a center attorney must not give information to one party that he or she would not give to the other party. Diligence requires that a center attorney provide the litigants with pertinent information to allow them to bring their matter before the court. This may include appropriate referrals to other resources as well as direct information and assistance at the center. The center attorney must require similar conduct of all center personnel.

(4) (*Respect and patience)* A center attorney must be aware of the social and economic differences that exist among litigants and maintain patience and respect for the litigants who seek the services of the center. The center attorney must require similar conduct of all center personnel. However, if a litigant becomes unruly or disruptive, the center attorney may ask the litigant to leave the center.

(5) (*Bias and prejudice)* A center attorney must assist the litigants who seek assistance from the center without exhibiting bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, socioeconomic status, or other similar factors, and must require similar conduct of all center personnel.

(6) (*Competent legal information)* A center attorney and his or her staff must

provide the litigants who seek assistance from the center with substantial procedural and legal information so that the litigants will have increased access to the court. The level of competence expected of the center attorney is to be measured within the limitations of the center format and the statutory and other guidelines and limitations that define the services to be provided by the center. The center is not intended to replace private counsel.

(7) (*Full notification of limits of service*) A center attorney must ensure that conspicuous notice is given, as set forth in Family Code section 15010(g), that no attorney-client relationship exists between the center or its staff and the family law litigant. The notice must include the advice that the absence of an attorney-client relationship means that communications between the party and the family law information center are not privileged and that the family law information center may provide services to the other party. Additionally, the center must use Judicial Council form 1294.5, *Family Law Information Center Disclosure,* or provide similar notice of the warnings set forth in Family Code section 15010(i).

(8) (*Public comment)* A center attorney and his or her staff must at all times comply with Family Code section 15010(h) and must not make any public comment about the litigants o about any pending or impending matter in the court.

(9) (*Gifts or payments*) A center attorney and his or her staff must not accept any gifts, favors, bequests, or loans from the litigants whom they assist, since this may give the appearance of impropriety or partiality, except for nominal gifts such as baked goods as allowed by local rules.

(10) (*Communications with bench officers)* A center attorney and his or her staff must avoid all communication with a bench officer in which they offer an opinion as to how the bench officer should rule on a case pending before the bench officer. A center attorney, as an arm of the court, may neutrally provide factual information to the bench officer if the bench officer requests such factual information. Communications about purely procedural matters or the functioning of the court are allowed and encouraged.

(11) (*Communication with represented litigants*) A center attorney and his or her staff must not assist or communicate, directly or indirectly, with a litigant

who is represented by an attorney. The center attorney and his or her staff must take steps to ensure that no litigants assisted by the center are represented by counsel, unless the center attorney has the consent of the litigant's attorney or the court has ordered the assistance.

Advisory Committee Comments

Family Code sections 15000–15012 established three pilot family law information centers to be administered by the Judicial Council for the purpose of providing information to unrepresented low-income family law litigants. The family law information centers provide information on types of relief available through the family court, what pleadings must be filed to obtain that relief, how to enforce court orders, and what requirements exist for proper service of court papers. The centers also provide referrals to community resources and assistance in preparing orders after court proceedings and they encourage parties to seek legal advice and assistance from an independent attorney.

Family Code section 15010(b)(2) requires that the centers be supervised by an active member of the State Bar in good standing. However, section 15010(g) provides that "[t]he family law information center shall not represent any party. No attorney-client relationship is created between a party and the family law information center as a result of any information or services provided to the party by the family law information center pursuant to subdivision (c)."

In order to help litigants understand the nature of the relationship between them and the family law information center, Family Code section 15010(g) directs that, "[t]he family law information center shall give conspicuous notice that no attorney-client relationship exists between the center, its staff, and the family law litigant. The notice shall include the advice that the absence of an attorney-client relationship means that communications between the party and the family law information center are not privileged, and that the family law information center may provide services to the other party."

While the party seeking the assistance of the family law information center does not have the traditional protection of attorney-client privilege, Family Code Section 15010(h) does prohibit "[a] person employed by, or directly supervised by, an employee of the family law information center" from making "any public comment about a pending or impending proceeding in the court as provided by paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics. All persons employed by, or directly supervised by, an employee of the family law information center shall be provided a copy of paragraph (9) of

subdivision (B) of Canon 3 of the Code of Judicial Ethics, and shall be required to sign an acknowledgment that he or she is aware of its provisions."

These guidelines are not intended to be exclusive. To the extent that they apply, attorneys who work in the centers are also bound by the State Bar Act, the Rules of Professional Conduct, local and state court employee rules, and relevant opinions of the California courts.

The authorities that govern attorney conduct in California apply to all California attorneys regardless of the capacity in which they are acting in a particular matter. Libarian v. State Bar 25 Cal. 2d. 314 (1944). "Permission" not to comply with these authorities may not be given by the State Bar. Sheffield v. State Bar 22 Cal. 2d.627 (1943).

Thus, California attorneys, regardless of the capacity in which they are performing in a particular matter, must conform their conduct to governing California authorities. However, because the disciplinary authorities are activity specific, not all authorities apply in all instances. For example, a transactional attorney who never appears in court is not likely to be at risk of violating the rules which govern court appearances. The transactional attorney is not immune from those rules, the nature of his or her practice simply minimizes the impact of those rules upon the services he or she performs. Thus, while center attorneys will not be immune from the governing authorities, certain rules and requirements will apply more directly to the nature of the services being provided than will others.

Just as the Rules of Professional Conduct are activity specific in general professional practice, the same is true for center attorneys. Although the Rules of Professional Conduct and related authorities will apply generally, and will apply directly when the attorney is representing "clients" in an attorney-client relationship, they will not directly be invoked where a center attorney provides assistance to a non-client in a family law information center which does not, by definition, represent "clients".

To the extent that Family Code sections 15010(g) and (h) establish by law that there is no attorney-client relationship, or privilege, for services provided by a family law information center, the Rules of Professional Conduct that specifically address the attorney client relationship and the carrying out of that relationship would not be invoked. However, the Rules of Professional Conduct would govern attorneys employed by the centers who also continue to work with actual "clients" in an attorney client relationship.

Although center attorneys are not exempt from the Rules of Professional Conduct, the employing court may promulgate guidelines for services provided by a center that are more applicable than some of the rules that are set forth in the Rules of Professional Conduct. The principles set forth in the California Code of Judicial Ethics are often more applicable to the centers. Those principles form the basis for these guidelines. The court may enforce the guidelines contained in these standards through its employee disciplinary process for court employees. Areas where the guidelines provide standards that are more applicable to the role of the family law information center as an entity of the court are as follows:

Rule 2-400 (Prohibited Discriminatory Conduct in Law Practice) – see proposed guideline 5 (Bias and prejudice);
Rule 3-110 (Failing to Act Competently) - see proposed guideline 3 (Impartiality and diligence) and 6 (Competent legal information);
Rule 3-120 (Sexual Relations with Client) - see proposed guideline 2 (Role as representative of the court);
Rule 3-200 (Prohibited Objectives of Employment) - see proposed guideline 2 (Role as representative of the court);
Rule 3-210 (Advising the Violation of Law) - see proposed guideline 2 (Role as representative of the court);
Rule 3-320 (Relationship with Other Party's Lawyer) - see proposed guideline 2 (Role as representative of the court);
Rule 4-300 (Purchasing Property at a Foreclosure or a Sale Subject to Judicial Review) -
see proposed guideline 2 (Role as representative of the court);
Rule 4-400 (Gifts from Clients) - see proposed guideline 8 (Gifts from litigants);
Rule 5-120 (Trial Publicity) - see proposed guideline 7 (Public comment);
Rule 5-220 (Suppression of Evidence) - see proposed guideline 2 (Role as representative of the court);
Rule 5-300 (Contact with Officials) - see proposed guideline 10 (Communications with judicial officers);
Rule 5-310 (Prohibited Contact with Witnesses) - see proposed guideline 2 (Role as representative of the court);
Rule 5-320 (Contact with Jurors) - see proposed guideline 2 (Role as representative of the court); and
Rule 2-100 (Communication with a Represented Party) - see proposed guideline 11 (Communication with represented litigant).

DIVISION 16. FAMILY LAW INFORMATION CENTERS

§15000

(a) The Legislature finds and declares the following:

(1) A growing number of family law litigants are unrepresented in family law proceedings, and the primary reason for the lack of representation in these matters is their inability to afford legal assistance.

(2) The failure to have access to legal resources prevents low-income litigants from fully understanding their rights and remedies in family law proceedings, thereby restricting their access to justice.

(3) There is a compelling state interest in ensuring that all family law litigants better understand court procedures and requirements and all litigants have more meaningful access to family court.

(4) It is the public policy of this state to maximize the opportunity for low-income persons to receive fair and just treatment by the family court and to decrease inequities resulting from an unrepresented party's limited legal skills and knowledge.

(b) It is the intent of the Legislature to create information centers to help all low-income family law litigants better understand their obligations, rights, and remedies and to provide procedural information to enable them to better understand and maneuver through the family court system.

§15010

(a) (1) It is the intent of the Legislature in enacting this section to establish a pilot project to be administered by the Judicial Council for the purpose of providing information to unrepresented low-income family law litigants.

(2) It is the intent of the Legislature, in creating this pilot project, to determine the most effective service delivery model to provide family law information and services to unrepresented litigants.

(3) It is the intent of the Legislature that all family law services available to litigants in the superior court of each county strive to adopt policies to most effectively coordinate their activities to ensure ease of access to unrepresented litigants and to avoid unnecessary duplication of services and administrative oversight by the Judicial Council or other oversight agencies.

(b) (1) The pilot project shall consist of three pilot project courts that shall be selected by the Judicial Council from those courts that apply to participate in the pilot project. No court shall be required to apply for the project.

(2) The pilot project courts shall establish a family law information center located in the superior court, that shall be supervised by an active member of the State Bar in good standing.

(3) In superior courts with a family law facilitator, the pilot project shall coordinate its

services with the services of the family law facilitator, and in at least one pilot project court, the family law facilitator shall staff and provide the services of the family law information center.

(4) In selecting the pilot project courts, the Judicial Council shall give priority to courts in counties that the Judicial Council determines are most underserved.

(5) The pilot project courts shall determine the composition and number of additional staff necessary to provide the services mandated by this section.

(c) The family law information center shall provide, to unrepresented low-income litigants, information and services, including, but not limited to, the following:

(1) Information as to the nature of various types of relief available through the family court, including restraining orders, marital dissolution or legal separation, paternity, child or spousal support, disposition of property, and child custody and visitation, and the method to seek that relief.

(2) Information as to the pleadings necessary to be filed for relief and instructions on the proper completion of those pleadings, including information as to the importance of the information called for by the pleadings.

(3) Information concerning the requirements for proper service of court papers.

(4) Assistance in preparing orders after court proceedings consistent with the court's announced orders.

(5) Information concerning methods of enforcing court orders in family law proceedings.

(6) The family law information center shall maintain a directory of community resources, including, but not limited to, low-cost legal assistance, counseling, domestic violence shelters, parenting education, mental health services, and job placement programs.

(7) The family law information center shall encourage parties to seek legal advice and assistance from an independent attorney.

(d) For purposes of this division, "low-income" shall mean individuals whose net monthly income, after deduction of mandatory court ordered payments, is 200 percent or less of the current monthly poverty line annually established by the Secretary of Health and Human Services pursuant to the Omnibus Budget Reconciliation Act of 1981, as amended. Family law litigants, prior to receiving the services of the family law information center, shall be required to sign a declaration attesting to their financial eligibility to receive those services. No other efforts to verify financial eligibility shall be necessary.

(e) The family law information center shall provide interpreter services, to the extent available in the pilot project courts, and allow the use of translators to facilitate the services provided pursuant to subdivision (c).

(f) The Judicial Council shall promulgate guidelines for the operation of the family law information center in accordance with the Rules of Professional Conduct.

(g) The family law information center shall not represent any party. No attorney-client relationship is created between a party and the family law information center as a result of any

information or services provided to the party by the family law information center pursuant to subdivision (c). The family law information center shall give conspicuous notice that no attorney-client relationship exists between the center, its staff, and the family law litigant. The notice shall include the advice that the absence of an attorney-client relationship means that communications between the party and the family law information center are not privileged, and that the family law information center may provide services to the other party.

(h) A person employed by, or directly supervised by, an employee of the family law information center shall not make any public comment about a pending or impending proceeding in the court as provided by paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics. All persons employed by, or directly supervised by, an employee of the family law information center shall be provided a copy of paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics, and shall be required to sign an acknowledgment that he or she is aware of its provisions.

(i) The Judicial Council shall create any necessary forms to advise the parties of the types of services provided, that there is no attorney-client relationship, that the family law information center is not responsible for the outcome of any case, that the family law information center does not represent any party and will not appear in court on the party's behalf, and that the other party may also be receiving information and services from the family law information center.

(j) A pilot project court may contract with a private nonprofit entity to staff and provide the services of the family law information center; however, the family law information center must be located, and the services provided, in the superior court.

(k) The Judicial Council shall conduct an evaluation of the pilot project and shall report to the Legislature, no later than March 1, 2003, on the success of the pilot project. The evaluation shall include outcome measures that address increased access to the courts for low-income litigants and any reduced burden on the courts by having the services of the family law information center available. The evaluation shall include an assessment of the number of people using the services of the family law information center, categorized by gender and by type of information sought, including information regarding marital dissolution, paternity, or domestic violence prevention proceedings, or relating to child custody, visitation, child support, or spousal support. The evaluation shall also assess the frequency with which people seek information from the family law information center to initiate an action or to respond to an action. The pilot project shall be deemed a success if, among other things, the pilot project court assists at least 100 low-income family law litigants in each year of its operation, a majority of the judges surveyed in the pilot project court believe the family law information center helps to expedite family law cases with pro per litigants, and a majority of the persons using the family law information center evaluate the services of the family law information center favorably.

§15012

This division shall remain in effect only until January 1, 2004, and as of that date is

repealed, unless a later enacted statute deletes or extends that date.

STATE BAR OF CALIFORNIA

Rules of Professional Conduct

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
Chapter 1. Professional Integrity in General		
Rule 1-100. Rules of Professional Conduct, in General Purpose and Function. The following rules are intended to regulate professional conduct of members of the State Bar through discipline. They have been adopted by the Board of Governors of the State Bar of California and approved by the Supreme Court of California pursuant to Business and Professions Code sections 6076 and 6077 to protect the public and to promote respect and confidence in the legal profession. These rules together with any standards adopted by the Board of Governors pursuant to these rules shall be binding upon all members of the State Bar. For a willful breach of any of these rules, the Board of Governors has the power to discipline members as provided by law. The prohibition of certain conduct in these rules is not exclusive. Members are also bound by applicable law including the State Bar Act (Bus. & Prof. Code, §6000 et seq.) and opinions of California courts. Although not binding, opinions of ethics committees in California should be consulted by members for guidance on proper professional conduct. Ethics opinions and rules and standards promulgated by other jurisdictions and bar associations may also be considered. These rules are not intended to create new civil causes of action. Nothing in these rules shall be deemed to create, augment, diminish, or eliminate any substantive legal duty of lawyers or the non-disciplinary consequences of violating such a duty. Definitions. (1) "Law Firm" means: (a) two or more lawyers whose activities constitute the practice of law, and who share its profits, expenses, and liabilities; or (b) a law corporation which employs more than one lawyer; or (c) a division, department, office, or group within a business entity, which includes more than one lawyer who performs legal services for the business entity; or (d) a publicly funded entity which employs more than one lawyer to perform legal services. (2) " Member" means a member of the State Bar of California. (3) "Lawyer" means a member of the State Bar of California or a person who is admitted in good standing of and eligible to practice before the bar of any United States court or the highest court of the District of Columbia or any state, territory, or insular possession of the United States, or is licensed to practice law in, or is admitted in good standing and eligible to practice before the bar of the highest court of, a foreign country or any political subdivision	This rule shall continue to apply to the attorneys employed by the Family Law Information Centers.	All attorneys must be members of the State Bar and, as such, are subject to the State Bar's oversight and discipline. However, the attorneys that are employed in the Family Law Information Centers should be subject to oversight and discipline only in relation to the existing, modified, or specific rules of professional conduct that apply to them in their roles at the Family Law Information Centers.

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Rules of Professional Conduct

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thereof. (4) "Associate" means an employee or fellow employee who is employed as a lawyer. (5) "Shareholder" means a shareholder in a professional corporation pursuant to Business and Professions Code section 6160 et seq. C. Purpose of Discussions. Because it is a practical impossibility to convey in black letter form all of the nuances of these disciplinary rules, the comments contained in the Discussions of the rules, while they do not add independent basis for imposing discipline, are intended to provide guidance for interpreting the rules and practicing in compliance with them. Geographic Scope of Rules. (1) As to members: These rules shall govern the activities of members in and outside this state, except as members lawfully practicing outside this state may be specifically required by a jurisdiction in which they are practicing to follow rules of professional conduct different from these rules. (2) As to lawyers from other jurisdictions who are not members: These rules shall also govern the activities of lawyers while engaged in the performance of lawyer functions in this state; but nothing contained in these rules shall be deemed to authorize the performance of such functions by such persons in this state except as otherwise permitted by law. These rules may be cited and referred to as "Rules of Professional Conduct of the State Bar of California."		
Rule 1-110. Disciplinary Authority of the State Bar A member shall comply with conditions attached to public or private reprovals or other discipline administered by the State Bar pursuant to Business and Professions Code sections 6077 and 6078 and rule 956, California Rules of Court.	This rule shall continue to apply to the attorneys employed by the Family Law Information Centers.	As members of the State Bar, Family Law Information Center attorneys must adhere to any disciplinary action taken against them by the State Bar.
Rule 1-120. Assisting, Soliciting, or Inducing Violations A member shall not knowingly assist in, solicit, or induce any violation of these rules or the State Bar Act.	This rule shall continue to apply to the attorneys employed by the Family Law Information Centers.	As members of the State Bar, Family Law Information Center attorneys are bound by the rules that apply to them. Even though some of the rules have been modified or changed, the attorneys must still adhere to this rule.

prepared by: Louise Bayles-Fightmaster
Family Law Facilitator, Sonoma County

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Rules of Professional Conduct

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Rule 1-200. False Statement Regarding Admission to the State Bar A. A member shall not knowingly make a false statement regarding a material fact or knowingly fail to disclose a material fact in connection with an application for admission to the State Bar. B. A member shall not further an application for admission to the State Bar of a person whom the member knows to be unqualified in respect to character, education, or other relevant attributes. C. This rule shall not prevent a member from serving as counsel of record for an applicant for admission to practice in proceedings related to such admission.	This rule shall continue to apply to the attorneys employed by the Family Law Information Centers.	In order to be employed as an attorney for a Family Law Information Center the attorney must be a member of the State Bar, and, therefore, must comply with the rules regarding application and admission regarding themselves or any other potential member.
Rule 1-300. Unauthorized Practice of Law A member shall not aid any person or entity in the unauthorized practice of law. A member shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.	This rule shall continue to apply to the attorneys employed by the Family Law Information Centers.	As members of the State Bar, Family Law Information Center attorneys are bound by the rules that apply to them. Even though some of the rules have been modified or changed, the attorneys must still adhere to this rule.
Rule 1-310. Forming a Partnership With a Non-Lawyer A member shall not form a partnership with a person who is not a lawyer if any of the activities of that partnership consist of the practice of law.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	The Family Law Information Center attorneys, in their capacity as Center attorneys, are not going to be forming partnerships with lawyers or non-lawyers as they will be salaried employees of the Centers and not involved in any way in the development or management of private law practices.

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Rule 1-311. Employment of Disbarred, Suspended, Resigned, or Involuntarily Inactive Member. For purposes of this rule: (1) "Employ" means to engage the services of another, including employees, agents, independent contractors and consultants, regardless of whether any compensation is paid; (2) "Involuntarily inactive member" means a member who is ineligible to practice law as a result of action taken pursuant to Business and Professions Code sections 6007, 6203(c), or California Rule of Court 958(d); and (3) "Resigned member" means a member who has resigned from the State Bar while disciplinary charges are pending. A member shall not employ, associate professionally with, or aid a person the member knows or reasonably should know is a disbarred, suspended, resigned, or involuntarily inactive member to perform the following on behalf of the member's client: (1) Render legal consultation or advice to the client; (2) Appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer; (3) Appear as a representative of the client at a deposition or other discovery matter; (4) Negotiate or transact any matter for or on behalf of the client with third parties; (5) Receive, disburse or otherwise handle the client's funds; or (6) Engage in activities which constitute the practice of law. A member may employ, associate professionally with, or aid a disbarred, suspended, resigned, or involuntarily inactive member to perform research, drafting or clerical activities, including but not limited to: (1) Legal work of a preparatory nature, such as legal research, the assemblage of data and other necessary information, drafting of pleadings, briefs, and other similar documents; (2) Direct communication with the client or third parties regarding matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages; or (3) Accompanying an active member in attending a deposition or other discovery matter for the limited purpose of providing clerical assistance to the active member who will appear as the representative of the client. Prior to or at the time of employing a person the member knows or reasonably should know is a disbarred, suspended, resigned, or involuntarily inactive member, the member shall serve upon the State Bar written notice of the employment, including a full description of	This rule shall continue to apply to the attorneys employed by the Family Law Information Centers.	As members of the State Bar, Family Law Information Center attorneys are bound by the rules that apply to them. Even though some of the rules have been modified or changed, the attorneys must still adhere to this rule.

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such person's current bar status. The written notice shall also list the activities prohibited in paragraph (B) and state that the disbarred, suspended, resigned, or involuntarily inactive member will not perform such activities. The member shall serve similar written notice upon each client on whose specific matter such person will work, prior to or at the time of employing such person to work on the client's specific matter. The member shall obtain proof of service of the client's written notice and shall retain such proof and a true and correct copy of the client's written notice for two years following termination of the member's employment with the client. A member may, without client or State Bar notification, employ a disbarred, suspended, resigned, or involuntarily inactive member whose sole function is to perform office physical plant or equipment maintenance, courier or delivery services, catering, reception, typing or transcription, or other similar support activities. Upon termination of the disbarred, suspended, resigned, or involuntarily inactive member, the member shall promptly serve upon the State Bar written notice of the termination.		
Rule 1-320. Financial Arrangements With Non-Lawyers Neither a member nor a law firm shall directly or indirectly share legal fees with a person who is not a lawyer, except that: (1) An agreement between a member and a law firm, partner, or associate may provide for the payment of money after the member's death to the member's estate or to one or more specified persons over a reasonable period of time; or (2) A member or law firm undertaking to complete unfinished legal business of a deceased member may pay to the estate of the increased member or other person legally entitled thereto that proportion of the total compensation which fairly represents the services rendered by the deceased member; or (3) A member or law firm may include non-member employees in a compensation, profit-sharing, or retirement plan even though the plan is based in whole or in part on a profit-sharing arrangement, if such plan does not circumvent these rules or Business and Professions Code section 6000 et seq.; or (4) A member may pay a prescribed registration, referral, or participation fee to a lawyer referral service established, sponsored, and operated in accordance with the State Bar of California's Minimum Standards for a Lawyer Referral Service in California. A member shall not compensate, give, or promise anything of value to any person or entity	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, Paragraph A. of this rule should continue to apply to Family Law Information Center attorneys when and if they are in representation roles where they will actually charge and receive a fee for their services. In addition, Paragraph B. of this	This rule specifically applies to situations in which an attorney is charging and receiving fees for the services they perform. This is not the case with the Family Law Center attorneys who will be paid a salary for their services by the courts that employ them. This rule specifically applies to situations

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for the purpose of recommending or securing employment of the member or the member's law firm by a client, or as a reward for having made a recommendation resulting in employment of the member or the member's law firm by a client. A member's offering of or giving a gift or gratuity to any person or entity having made a recommendation resulting in the employment of the member or the member's law firm shall not of itself violate this rule, provided that the gift or gratuity was not offered or given in consideration of any promise, agreement, or understanding that such a gift or gratuity would be forthcoming or that referrals would be made or encouraged in the future. (C) A member shall not compensate, give, or promise anything of value to any representative of the press, radio, television, or other communication medium in anticipation of or in return for publicity of the member, the law firm, or any other member as such in a news item, but the incidental provision of food or beverage shall not of itself violate this rule.	rule should continue to apply to Family Law Information Center attorneys only when and if they are in a role where soliciting business by offering gifts or gratuities will potentially result in financial gain to the attorneys, i.e. a representation role. Paragraph C. of this rule should continue to apply to Family Law Information Center attorneys only when and if they are in a role where they stand to gain clients/business from the publicity they receive, i.e. a representation role.	where attorneys are in private practice and, as business people, must continue to build and maintain their client base. This rule requires that they do so without violating the provisions that are set forth in the rule. However, the Attorneys who are employed by the Family Law Information Centers will be salaried employees who will not be in the business of building and maintaining law practices. Same rationale as above regarding Paragraph B. The Family Law Information Center attorneys will have contact with the media regarding their programs, but their contacts will not be for the purpose of personal or professional financial gain.
<u>Rule 1-400. Advertising and Solicitation</u> For purposes of this rule, "communication" means any message or offer made by or on behalf of a member concerning the availability for professional employment of a member or a law firm directed to any former, present, or prospective client, including but not limited to the following: (1) Any use of firm name, trade name, fictitious name, or other professional designation of such member or law firm; or (2) Any stationery, letterhead, business card, sign, brochure, or other comparable written material describing such member, law firm, or	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers.	This rule should not apply to Family Law Information Center attorneys in their capacity as Center attorneys. While they will "advertise" the services of their centers, they will not be doing so for the

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lawyers; or (3) Any advertisement (regardless of medium) of such member or law firm directed to the general public or any substantial portion thereof; or (4) Any unsolicited correspondence from a member or law firm directed to any person or entity. For purposes of this rule, a "solicitation" means any communication: (1) Concerning the availability for professional employment of a member or a law firm in which a significant motive is pecuniary gain; and (2) Which is; (a) delivered in person or by telephone, or (b) directed by any means to a person known to the sender to be represented by counsel in a matter which is a subject of the communication. A solicitation shall not be made by or on behalf of a member or law firm to a prospective client with whom the member or law firm has no family or prior professional relationship, unless the solicitation is protected from abridgment by the Constitution of the United States or by the Constitution of the State of California. A solicitation to a former or present client in the discharge of a member's or law firm's professional duties is not prohibited. A communication or a solicitation (as defined herein) shall not: (1) Contain any untrue statement; or (2) Contain any matter, or present or arrange any matter in a manner or format which is false, deceptive, or which tends to confuse, deceive, or mislead the public; or (3) Omit to state any fact necessary to make the statements made, in the light of circumstances under which they are made, not misleading to the public; or (4) Fail to indicate clearly, expressly, or by context, that it is a communication or solicitation, as the case may be; or (5) Be transmitted in any manner which involves intrusion, coercion, duress, compulsion, intimidation, threats, or vexatious or harassing conduct. (6) State that a member is a "certified specialist" unless the member holds a current certificate as a specialist issued by the Board of Legal Specialization, or any other entity accredited by the State Bar to designate specialists pursuant to standards adopted by the Board of Governors, and states the complete name of the entity which granted certification. The Board of Governors of the State Bar shall formulate and adopt standards as to communications which will be presumed to violate this rule 1-400. The standards shall only be used as presumptions affecting the burden of proof in disciplinary proceedings involving alleged violations of these rules. "Presumption affecting the burden of proof" means that presumption defined in Evidence Code sections 605 and 606. Such standards formulated and adopted by the Board, as from time to time amended, shall be effective and binding on all members.	However, this rule should continue to apply to Family Law Information Center attorneys only when and if they are in a representation role and the advertising or solicitation is for the purposed of personal/professional financial gain.	purpose of pecuniary gain. The "advertising" will be for the purpose of providing the community with information regarding the nature and availability of the Centers' services. It will be in the nature of "public information", not advertising or soliciting per se. In addition, the Family Law Information Center attorneys, by statute, do not represent the litigants that they assist. Therefore, there cannot be an expectation of pecuniary gain by the attorney or representation by the litigant.

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A member shall retain for two years a true and correct copy or recording of any communication made by written or electronic media. Upon written request, the member shall make any such copy or recording available to the State Bar, and, if requested, shall provide to the State Bar evidence to support any factual or objective claim contained in the communication. (Former rule 1-400 (D)(6) repealed by order of the Supreme Court effective November 30, 1992. New rule 1-400 (D)(6) added by order of the Supreme Court effective June 1, 1997.) Standards: Pursuant to rule 1-400(E) the Board of Governors of the State Bar has adopted the following standards, effective May 27, 1989, unless noted otherwise, as forms of "communication" defined in rule 1-400(A) which are presumed to be in violation of rule 1-400: (1) A "communication" which contains guarantees, warranties, or predictions regarding the result of the representation. (2) A "communication" which contains testimonials about or endorsements of a member unless such communication also contains an express disclaimer such as "this testimonial or endorsement does not constitute a guarantee, warranty, or prediction regarding the outcome of your legal matter." (3) A "communication" which is delivered to a potential client whom the member knows or should reasonably know is in such a physical, emotional, or mental state that he or she would not be expected to exercise reasonable judgment as to the retention of counsel. (4) A "communication" which is transmitted at the scene of an accident or at or en route to a hospital, emergency care center, or other health care facility. (5) A "communication," except professional announcements, seeking professional employment for pecuniary gain, which is transmitted by mail or equivalent means which does not bear the word "Advertisement," "Newsletter" or words of similar import in 12 point print on the first page. If such communication, including firm brochures, newsletters, recent legal development advisories, and similar materials, is transmitted in an envelope, the envelope shall bear the word "Advertisement," "Newsletter" or words of similar import on the outside thereof. (6) A "communication" in the form of a firm name, trade name, fictitious name, or other professional designation which states or implies a relationship between any member in private practice and a government agency or instrumentality or a public or non-profit legal services organization. (7) A "communication" in the form of a firm name, trade name, fictitious name, or other professional designation which states or implies that a member has a relationship to any other lawyer or a law firm as		

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a partner or associate, or officer or shareholder pursuant to Business and Professions Code sections 6160-6172 unless such relationship in fact exists. (8) A "communication" which states or implies that a member or law firm is "of counsel" to another lawyer or a law firm unless the former has a relationship with the latter (other than as a partner or associate, or officer or shareholder pursuant to Business and Professions Code sections 6160-6172) which is close, personal, continuous, and regular. (9) A "communication" in the form of a firm name, trade name, fictitious name, or other professional designation used by a member or law firm in private practice which differs materially from any other such designation used by such member or law firm at the same time in the same community. (10) A "communication" which implies that the member or law firm is participating in a lawyer referral service which has been certified by the State Bar of California or as having satisfied the Minimum Standards for Lawyer Referral Services in California, when that is not the case. (11) A "communication" which states or implies that a member is a "certified specialist" unless such communication also states the complete name of the entity which granted the certification as a specialist. (Repealed by order of the Supreme Court, effective June 1, 1997. See rule 1-400(D)(6).) (12) A "communication," except professional announcements, in the form of an advertisement primarily directed to seeking professional employment primarily for pecuniary gain transmitted to the general public or any substantial portion thereof by mail or equivalent means or by means of television, radio, newspaper, magazine or other form of commercial mass media which does not state the name of the member responsible for the communication. When the communication is made on behalf of a law firm, the communication shall state the name of at least one member responsible for it. (13) A "communication" which contains a dramatization unless such communication contains a disclaimer which states "this is a dramatization" or words of similar import. (14) A "communication" which states or implies "no fee without recovery" unless such communication also expressly discloses whether or not the client will be liable for costs. (15) A "communication" which states or implies that a member is able to provide legal services in a language other than English unless the member can actually provide legal services in such language or the communication also states in the language of the communication (a) the employment title of the person who speaks such language and (b) that the person is not a member of the State Bar of California, if that is the case. (16) An unsolicited "communication" transmitted to the general public or any substantial portion thereof primarily directed to seeking professional employment primarily		

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
for pecuniary gain which sets forth a specific fee or range of fees for a particular service where, in fact, the member charges a greater fee than advertised in such communication within a period of 90 days following dissemination of such communication, unless such communication expressly specifies a shorter period of time regarding the advertised fee. Where the communication is published in the classified or "yellow pages" section of telephone, business or legal directories or in other media not published more frequently than once a year, the member shall conform to the advertised fee for a period of one year from initial publication, unless such communication expressly specifies a shorter period of time regarding the advertised fee.		
Rule 1-500. Agreements Restricting a Member's Practice A member shall not be a party to or participate in offering or making an agreement, whether in connection with the settlement of a lawsuit or otherwise, if the agreement restricts the right of a member to practice law, except that this rule shall not prohibit such an agreement which: (1) Is a part of an employment, shareholders', or partnership agreement among members provided the restrictive agreement does not survive the termination of the employment, shareholder, or partnership relationship; or (2) Requires payments to a member upon the member's retirement from the practice of law; or (3) Is authorized by Business and Professions Code sections 6092.5 subdivision (i), or 6093. A member shall not be a party to or participate in offering or making an agreement which precludes the reporting of a violation of these rules.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers only when and if they are practicing law in a context separate and apart from their employment at the Centers.	Family Law Information Center attorneys will be under contract with the counties or organizations who administer the programs in their counties. They will be bound by the requirements of their employment agreements regarding any practice of law outside of the scope of their employment at the Centers. If their employment contracts allow the practice of law outside of their Center employment, this rule will apply to that practice of law only.
Rule 1-600. Legal Service Programs A member shall not participate in a non-governmental program, activity, or organization furnishing, recommending, or paying for legal services, which allows any third person or organization to interfere with the member's independence of professional judgment, or with the client-lawyer relationship, or allows unlicensed persons to practice law, or allows any	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of	Family Law Information Centers were created by statute (Family Code 15000 et seq) and are funded by the State of California.

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third person or organization to receive directly or indirectly any part of the consideration paid to the member except as permitted by these rules, or otherwise violates the State Bar Act or these rules. The Board of Governors of the State Bar shall formulate and adopt Minimum Standards for Lawyer Referral Services, which, as from time to time amended, shall be binding on members.	the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers only when and if they are practicing law in a context separate and apart from their employment at the Centers. The Centers are not Legal Services Programs as defined in this rule.	The Center attorneys are a part of a governmental program. The Centers are not Legal Service Programs as defined by the State Bar. Therefore, this rule does not apply to the Centers and their attorneys when they are working in their capacity as employees of the Centers. This rule should continue to apply to any representational activities that a Center attorney performs outside of the scope of their Center employment at a Legal Services Program.
Rule 1-700. Member as Candidate for Judicial Office A member who is a candidate for judicial office in California shall comply with Canon 5 of the Code of Judicial Ethics. For purposes of this rule, "candidate for judicial office" means a member seeking judicial office by election. The determination of when a member is a candidate for judicial office is defined in the terminology section of the California Code of Judicial Ethics. A member's duty to comply with paragraph (A) shall end when the member announces withdrawal of the member's candidacy or when the results of the election are final, whichever occurs first.	This rule shall continue to apply to the attorneys employed by the Family Law Information Centers.	Attorneys employed by the Family Law Information Centers may choose to become candidates for judicial office and, if they do, they should have to comply with this rule.
Rule 1-710. Member as Temporary Judge, Referee, or Court-Appointed Arbitrator A member who is serving as a temporary judge, referee, or court-appointed arbitrator, and is subject under the Code of Judicial Ethics to Canon 6D, shall comply with the terms of that canon.	This rule shall continue to apply to the attorneys employed by the Family Law Information Centers.	While it is unlikely that attorneys employed by the Family Law Information Centers will be serving in one of these roles, it is not precluded by the statute.

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		If a Center attorney is serving as a Temporary Judge, Referee, or Court-Appointed Arbitrator, the attorney should have to comply with this Rule and Code of Judicial Ethics, Canon 6D.
Chapter 2. Relationship Among Members		
Rule 2-100. Communication With a Represented Party While representing a client, a member shall not communicate directly or indirectly about the subject of the representation with a party the member knows to be represented by another lawyer in the matter, unless the member has the consent of the other lawyer. For purposes of this rule, a "party" includes: (1) An officer, director, or managing agent of a corporation or association, and a partner or managing agent of a partnership; or (2) An association member or an employee of an association, corporation, or partnership, if the subject of the communication is any act or omission of such person in connection with the matter which may be binding upon or imputed to the organization for purposes of civil or criminal liability or whose statement may constitute an admission on the part of the organization. This rule shall not prohibit: (1) Communications with a public officer, board, committee, or body; or (2) Communications initiated by a party seeking advice or representation from an independent lawyer of the party's choice; or (3) Communications otherwise authorized by law.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers only when and if they are practicing law in a context separate and apart from their employment at the Centers. Family Law Information Center attorneys shall not actively seek to assist litigants who are represented by counsel. However, the Center attorneys are not precluded from providing assistance to represented litigants who voluntarily seek the assistance of the Center.	Family Code 15010(a) states that the legislative intent of this section is to provide "information to unrepresented low-income family law litigants." Family Code section 15010(g) specifically states that litigants seeking assistance at Family Law Information Centers are not represented by the attorneys who are employed by the Centers and that no attorney client relationships are created when litigants obtain assistance at the Centers. Rule 2-100 C. states that "communications initiated by a party seeking advice or representation from an independent lawyer of the party's choice" are not prohibited. Rule 2-100 starts out with the language "While representing a client..." Given this language, Rule 2-100 should not

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		apply to Center attorneys as they are specifically not representing the parties they assist. However, active interference in an existing attorney client relationship should be prohibited under the rules.
Rule 2-200. Financial Arrangements Among Lawyers A member shall not divide a fee for legal services with a lawyer who is not a partner of, associate of, or shareholder with the member unless: (1) The client has consented in writing thereto after a full disclosure has been made in writing that a division of fees will be made and the terms of such division; and (2) The total fee charged by all lawyers is not increased solely by reason of the provision for division of fees and is not unconscionable as that term is defined in rule 4-200. Except as permitted in paragraph (A) of this rule or rule 2-300, a member shall not compensate, give, or promise anything of value to any lawyer for the purpose of recommending or securing employment of the member or the member's law firm by a client, or as a reward for having made a recommendation resulting in employment of the member or the member's law firm by a client. A member's offering of or giving a gift or gratuity to any lawyer who has made a recommendation resulting in the employment of the member or the member's law firm shall not of itself violate this rule, provided that the gift or gratuity was not offered in consideration of any promise, agreement, or understanding that such a gift or gratuity would be forthcoming or that referrals would be made or encouraged in the future.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers only when and if they are practicing law in a context separate and apart from their employment at the Centers.	This rule assumes that there are fees to be divided and that the attorneys are in the business of establishing, building, and maintaining a law practices, i.e. this rule specifically applies to situations in which the attorneys are charging and receiving fees for the services they perform. This is not the case with the Family Law Information Center attorneys who will be paid a salary for their services. However, to the extent that a Center attorney is allowed to maintain a private practice outside of the context of their employment with the Center, this rule should apply.
Rule 2-300. Sale or Purchase of a Law Practice of a Member, Living or Deceased All or substantially all of the law practice of a member, living or deceased, including goodwill, may be sold to another member or law firm subject to all the following conditions: A0 Fees charged to clients shall not be increased solely by reason of such sale. B0 If the sale contemplates the transfer of responsibility for work not yet completed or	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of	In their roles as Family Law Information Center attorneys, the attorneys will not be dealing with private law practices and, therefore, will have no reason, in this role, to

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responsibility for client files or information protected by Business and Professions Code section 6068, subdivision (e), then; (1) if the seller is deceased, or has a conservator or other person acting in a representative capacity, and no member has been appointed to act for the seller pursuant to Business and Professions Code section 6180.5, then prior to the transfer; (a) the purchaser shall cause a written notice to be given to the client stating that the interest in the law practice is being transferred to the purchaser; that the client has the right to retain other counsel; that the client may take possession of any client papers and property, as required by rule 3-700(D); and that if no response is received to the notification within 90 days of the sending of such notice, or in the event the client's rights would be prejudiced by a failure to act during that time, the purchaser may act on behalf of the client until otherwise notified by the client. Such notice shall comply with the requirements as set forth in rule 1-400(D) and any provisions relating to attorney-client fee arrangements, and (b) the purchaser shall obtain the written consent of the client provided that such consent shall be presumed until otherwise notified by the client if no response is received to the notification specified in subparagraph (a) within 90 days of the date of the sending of such notification to the client's last address as shown on the records of the seller, or the client's rights would be prejudiced by a failure to act during such 90-day period. (2) in all other circumstances, not less than 90 days prior to the transfer; (a) the seller, or the member appointed to act for the seller pursuant to Business and Professions Code section 6180.5, shall cause a written notice to be given to the client stating that the interest in the law practice is being transferred to the purchaser; that the client has the right to retain other counsel; that the client may take possession of any client papers and property, as required by rule 3-700(D); and that if no response is received to the notification within 90 days of the sending of such notice, the purchaser may act on behalf of the client until otherwise notified by the client. Such notice shall comply with the requirements as set forth in rule 1-400(D) and any provisions relating to attorney-client fee arrangements, and (b) the seller, or the member appointed to act for the seller pursuant to Business and Professions Code section 6180.5, shall obtain the written consent of the client prior to the transfer provided that such consent shall be presumed until otherwise notified by the client if no response is received to the notification specified in subparagraph (a) within 90 days of the date of the sending of such notification to the client's last address as shown on the records of the seller. C0 If substitution is required by the rules of a tribunal in which a matter is pending, all steps	the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers only when and if they are practicing law in a context separate and apart from their employment at the Centers and, therefore, have a law practice to sell, or are involved in the sale or purchase of someone else's law practice.	be involved in the sale of a law practice. However, the Center attorneys may still maintain private practices, or be acting on behalf of a colleague, outside the scope of their Center employment, and, in this capacity, they should continue to be bound by this rule.

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necessary to substitute a member shall be taken. D0 All activity of a purchaser or potential purchaser under this rule shall be subject to compliance with rules 3-300 and 3-310 where applicable. E0 Confidential information shall not be disclosed to a non-member in connection with a sale under this rule. F0 Admission to or retirement from a law partnership or law corporation, retirement plans and similar arrangements, or sale of tangible assets of a law practice shall not be deemed a sale or purchase under this rule.		
Rule 2-400. Prohibited Discriminatory Conduct in a Law Practice. For purposes of this rule: (1) "law practice" includes sole practices, law partnerships, law corporations, corporate and governmental legal departments, and other entities which employ members to practice law; (2) "knowingly permit" means a failure to advocate corrective action where the member knows of a discriminatory policy or practice which results in the unlawful discrimination prohibited in paragraph (B); and (3) "unlawfully" and "unlawful" shall be determined by reference to applicable state or federal statutes or decisions making unlawful discrimination in employment and in offering goods and services to the public. In the management or operation of a law practice, a member shall not unlawfully discriminate or knowingly permit unlawful discrimination on the basis of race , national origin, sex, sexual orientation, religion, age or disability in: (1) hiring, promoting, discharging, or otherwise determining the conditions of employment of any person; or (2) accepting or terminating representation of any client. (C) No disciplinary investigation or proceeding may be initiated by the State Bar against a member under this rule unless and until a tribunal of competent jurisdiction, other than a disciplinary tribunal, shall have first adjudicated a complaint of alleged discrimination and found that unlawful conduct occurred. Upon such adjudication, the tribunal finding or verdict shall then be admissible evidence of the occurrence or non-occurrence of the alleged discrimination in any disciplinary proceeding initiated under this rule. In order for discipline to be imposed under this rule, however, the finding of unlawfulness must be upheld and final after appeal, the time for filing an appeal must have expired, or the appeal must have been dismissed.	This rule should be modified as set forth below. A center attorney shall assist the litigants who seek assistance from the Center without exhibiting bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, socioeconomic status, or other similar factors, and shall require similar conduct of all Center personnel. However, this rule should continue to apply, as written in the Rules of Professional Conduct, to attorneys employed by the Family Law Information Centers only when and if they are practicing law in a context separate and apart from	The Family Law Information Centers are neutral, court based programs, and, as such, the ethical considerations that apply to court personnel and bench officers are better suited for the Centers. These ethical guidelines address the issues of impartiality, independence and bias. The California Code of Judicial Conduct, Canon 3 states "A Judge should perform the duties of judicial office impartially and diligently" and more specifically Canon 3 B.(5) states "A judge should perform judicial duties without bias or prejudice...." The concepts set forth in these Canons are more relevant to the role of the Center attorneys than Rule 2-400. The Center attorneys are court employees (Family Code section 15010(b)(2)), they do not represent the litigants they assist (Family Code section

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	their employment at the Centers.	15010(g), and they are statutorily precluded from making any public comment about any pending or impending case per "Canon 3 of the Code of Judicial Ethics" (Family Code section 15010(h)). The courts are the ultimate employers and the courts, not the Center attorneys, must comply with the employment laws regarding discriminatory employment practices. The Center attorneys should be guided by the proposed rule when dealing with Center customers or co-workers at the Centers.
Chapter 3. Professional Relationship With Clients		
Rule 3-110. Failing to Act Competently. A member shall not intentionally, recklessly, or repeatedly fail to perform legal services with competence. For purposes of this rule, "competence" in any legal service shall mean to apply the 1) diligence, 2) learning and skill, and 3) mental, emotional, and physical ability reasonably necessary for the performance of such service. If a member does not have sufficient learning and skill when the legal service is undertaken, the member may nonetheless perform such services competently by 1) associating with or, where appropriate, professionally consulting another lawyer reasonably believed to be competent, or 2) by acquiring sufficient learning and skill before performance is required.	This rule should be modified as set forth below. A Family Law Information Center attorney shall perform his/her duties impartially and diligently. Impartiality includes not giving information to one party for the purpose of giving one party an advantage over another. In addition, a Center attorney shall not give information to one party that he/she would not give to the	The Family Law Information Centers are neutral, court based programs, and, as such, the ethical considerations that apply to court personnel and bench officers are better suited for the Centers. These ethical guidelines address the issues of impartiality, independence and bias. The California Code of Judicial Conduct, Canon 3 states: "A judge should perform the duties of judicial office impartially and diligently." Canon 3 B.(2) states: "A judge should be faithful to the law and maintain professional

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	other party. Diligence requires that a Center attorney provide the litigant with pertinent information to allow them to bring their matter before the court. This may include appropriate referrals as well as direct information and assistance at the Center. However Rule 3-110 should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	competence in it. A judge should not be swayed by partisan interests, public clamor or fear of criticism." Canon 3 B.(8) states: "A judge should dispose of all judicial matters fairly, promptly, and efficiently." The proposed rule applies these concepts to the Family Law Information Centers. Obviously the Centers are not judicial in nature, but they are court centered, and, as such, need to perform their duties in an impartial and diligent manner.
Rule 3-120. Sexual Relations With Client For purposes of this rule, "sexual relations" means sexual intercourse or the touching of an intimate part of another person for the purpose of sexual arousal, gratification, or abuse. A member shall not: (1) Require or demand sexual relations with a client incident to or as a condition of any professional representation or (2) Employ coercion, intimidation, or undue influence in entering into sexual relations with a client; or (3) Continue representation of a client with whom the member has sexual relations if such sexual relations cause the member to perform legal services incompetently in violation of rule 3-110. Paragraph (B) shall not apply to sexual relations between members and their spouses or to ongoing consensual sexual relationships which predate the initiation of the lawyer-client relationship. Where a lawyer in a firm has sexual relations with a client but does not participate in the representation of that client, the lawyers in the firm shall not be subject to discipline under this rule solely because of the occurrence of such sexual relations.	This rule should be modified as set forth below. A Family Law Information Center attorney shall recognize the he/she is a representative of the court and, as such, shall avoid all acts of impropriety, or the appearance of impropriety, at all times. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are	The proposed rule is a broader rule than Rule 3-120, but nonetheless obviously includes sexual relations with Center customers. The California Code of Judicial Conduct, Canon 2 states: "A judge should avoid impropriety and the appearance of impropriety in all of the judge's activities." As a court representative, the Center attorneys should be held to ethical requirements akin to other court personnel. The ethical rules for judicial officers are the

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	practicing law in a context separate and apart from their employment at the Centers.	highest and most stringent and, therefore, have been used here to insure the best possible treatment of and protection for the Center customers.
Rule 3-200. Prohibited Objectives of Employment A member shall not seek, accept, or continue employment if the member knows or should know that the objective of such employment is: To bring an action, conduct a defense, assert a position in litigation, or take an appeal, without probable cause and for the purpose of harassing or maliciously injuring any person; or (B) To present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by a good faith argument for an extension, modification, or reversal of such existing law.	This rule should be modified as set forth below. A Family Law Information Center attorney shall recognize the he/she is a representative of the court and, as such, shall avoid all acts of impropriety, or the appearance of impropriety, at all times. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	This proposed rule is broader rule than Rule 3-200, but more than encompasses the subject matter of the Rule.
Rule 3-210. Advising the Violation of Law A member shall not advise the violation of any law, rule, or ruling of a tribunal unless the member believes in good faith that such law, rule, or ruling is invalid. A member may take appropriate steps in good faith to test the validity of any law, rule, or ruling of a tribunal.	This rule should be modified as set forth below. A Family Law Information Center attorney shall recognize the he/she is a representative of the court and, as such, shall avoid all acts of	Same rationale as above for Rules 3-120 and 3-200.

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	impropriety, or the appearance of impropriety, at all times.However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	
Rule 3-300. Avoiding Interests Adverse to a Client A member shall not enter into a business transaction with a client; or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client, unless each of the following requirements has been satisfied: The transaction or acquisition and its terms are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner which should reasonably have been understood by the client; and The client is advised in writing that the client may seek the advice of an independent lawyer of the client's choice and is given a reasonable opportunity to seek that advice; and The client thereafter consents in writing to the terms of the transaction or the terms of the acquisition.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	As employees of the Family Law Information Centers the Center attorneys will not, by definition and statute, establish an attorney-client relationship with the litigants they assist. While it would be inappropriate to enter into business transactions with a Center litigant, Rule 3-300 specifically addresses situations where there is an attorney-client relationship. Therefore, a proposed replacement rule is not included here. The rule set forth above in Rule 3-210 would apply to any personal dealings with Center customers.
Rule 3-310. Avoiding the Representation of Adverse Interests For purposes of this rule: (1) "Disclosure" means informing the client or former client of the	This rule is inapplicable to	As employees of the Family Law Information

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relevant circumstances and of the actual and reasonably foreseeable adverse consequences to the client or former client; (2) "Informed written consent" means the client's or former client's written agreement to the representation following written disclosure; (3) "Written" means any writing as defined in Evidence Code section 250. A member shall not accept or continue representation of a client without providing written disclosure to the client where: (1) The member has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; or (2) The member knows or reasonably should know that: (a) the member previously had a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; and (b) the previous relationship would substantially affect the member's representation; or (3) The member has or had a legal, business, financial, professional, or personal relationship with another person or entity the member knows or reasonably should know would be affected substantially by resolution of the matter; or (4) The member has or had a legal, business, financial, or professional interest in the subject matter of the representation. A member shall not, without the informed written consent of each client: (1) Accept representation of more than one client in a matter in which the interests of the clients potentially conflict; or (2) Accept or continue representation of more than one client in a matter in which the interests of the clients actually conflict; or (3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter. A member who represents two or more clients shall not enter into an aggregate settlement of the claims of or against the clients without the informed written consent of each client. A member shall not, without the informed written consent of the client or former client, accept employment adverse to the client or former client where, by reason of the representation of the client or former client, the member has obtained confidential information material to the employment. A member shall not accept compensation for representing a client from one other than the client unless: (1) There is no interference with the member's independence of professional judgment or with the client-lawyer relationship; and (2) Information relating to representation of the client is protected as required by Business and Professions Code section 6068, subdivision (e); and (3) The member obtains the client's informed written consent, provided that no disclosure or consent is required if: (a) such nondisclosure is otherwise authorized by law; or (b) the member is rendering legal services on behalf of any public agency which provides legal services to other public agencies or the public.	attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	Centers the Center attorneys will not, by definition and statute, establish an attorney-client relationship with the litigants they assist. Since the Center attorneys will not be representing the litigants who seek assistance from the Centers, there will not be any "adverse interests". In fact, the Center attorneys may well provide information and assistance to multiple parties in the same case or proceeding, and, as neutral, court personnel, are required to do precisely that. The rule set forth above in Rule 3-210 would apply to any potential dealings with Center customers regarding adverse interests.

STATE BAR OF CALIFORNIA

Rules of Professional Conduct

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Rule 3-320. Relationship With Other Party's Lawyer A member shall not represent a client in a matter in which another party's lawyer is a spouse, parent, child, or sibling of the member, lives with the member, is a client of the member, or has an intimate personal relationship with the member, unless the member informs the client in writing of the relationship.	This rule should be modified as set forth below. A Family Law Information Center attorney shall recognize the he/she is a representative of the court and, as such, shall avoid all acts of impropriety, or the appearance of impropriety, at all times. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	As employees of the Family Law Information Centers the Center attorneys will not, by definition and statute, establish an attorney-client relationship with the litigants they assist. However, even though the Center attorneys will not be representing the litigants who seek assistance from the Centers, situations may arise that are similar to those listed in Rule 3-320. The proposed rule covers these incidents, as well as many other situations, where the behavior or action of the Center attorney comes under the "impropriety or appearance of impropriety" umbrella.
Rule 3-400. Limiting Liability to Client A member shall not: Contract with a client prospectively limiting the member's liability to the client for the member's professional malpractice; or Settle a claim or potential claim for the member's liability to the client for the member's professional malpractice, unless the client is informed in writing that the client may seek the advice of an independent lawyer of the client's choice regarding the settlement and is given a reasonable opportunity to seek that advice.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. This rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	As employees of the Family Law Information Centers the Center attorneys will not, by definition and statute, establish an attorney-client relationship with the litigants they assist. Since there will be no attorney-client relationship, malpractice per se will not be an issue. However, the attorneys who are employed by the Centers will be subject to proposed rule regarding diligence set forth above in Rule 3-

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		110.
Rule 3-500. Communication A member shall keep a client reasonably informed about significant developments relating to the employment or representation, including promptly complying with reasonable requests for information and copies of significant documents when necessary to keep the client so informed.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers.However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	As employees of the Family Law Information Centers the Center attorneys will not, by definition and statute, establish an attorney-client relationship with the litigants they assist. Under 15010(g) there would be no obligation whatsoever to keep the litigant informed about significant developments relating to the employment or representation. Once the litigants leave the Centers the litigants will be on their own as they are, by definition, unrepresented.
Rule 3-510. Communication of Settlement Offer A member shall promptly communicate to the member's client: (1) All terms and conditions of any offer made to the client in a criminal matter; and (2) All amounts, terms, and conditions of any written offer of settlement made to the client in all other matters. As used in this rule, "client" includes a person who possesses the authority to accept an offer of settlement or plea, or, in a class action, all the named representatives of the class.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	As employees of the Family Law Information Centers the Center attorneys will not, by definition and statute, establish an attorney-client relationship with the litigants they assist. The Center attorneys will not be in a position to convey any settlement offers for the Center customers as the attorneys will not be doing any negotiating of agreements or settlements on behalf of the litigants that they are assisting.

STATE BAR OF CALIFORNIA

Rules of Professional Conduct

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Rule 3-600. Organization as Client In representing an organization, a member shall conform his or her representation to the concept that the client is the organization itself, acting through its highest authorized officer, employee, body, or constituent overseeing the particular engagement. If a member acting on behalf of an organization knows that an actual or apparent agent of the organization acts or intends or refuses to act in a manner that is or may be a violation of law reasonably imputable to the organization, or in a manner which is likely to result in substantial injury to the organization, the member shall not violate his or her duty of protecting all confidential information as provided in Business and Professions Code section 6068, subdivision (e). Subject to Business and Professions Code section 6068, subdivision (e), the member may take such actions as appear to the member to be in the best lawful interest of the organization. Such actions may include among others: (1) Urging reconsideration of the matter while explaining its likely consequences to the organization; or (2) Referring the matter to the next higher authority in the organization, including, if warranted by the seriousness of the matter, referral to the highest internal authority that can act on behalf of the organization. If, despite the member's actions in accordance with paragraph (B), the highest authority that can act on behalf of the organization insists upon action or a refusal to act that is a violation of law and is likely to result in substantial injury to the organization, the member's response is limited to the member's right, and, where appropriate, duty to resign in accordance with rule 3-700. In dealing with an organization's directors, officers, employees, members, shareholders, or other constituents, a member shall explain the identity of the client for whom the member acts, whenever it is or becomes apparent that the organization's interests are or may become adverse to those of the constituent(s) with whom the member is dealing. The member shall not mislead such a constituent into believing that the constituent may communicate confidential information to the member in a way that will not be used in the organization's interest if that is or becomes adverse to the constituent. A member representing an organization may also represent any of its directors, officers, employees, members, shareholders, or other constituents, subject to the provisions of rule 3-310. If the organization's consent to the dual representation is required by rule 3-310, the consent shall be given by an appropriate constituent of the organization other than the	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	As employees of the Family Law Information Centers the Center attorneys will not, by definition and statute, establish an attorney-client relationship with the litigants they assist, whether they are individuals or organizations.

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individual or constituent who is to be represented, or by the shareholder(s) or organization members.		
Rule 3-700. Termination of Employment In General. (1) If permission for termination of employment is required by the rules of a tribunal, a member shall not withdraw from employment in a proceeding before that tribunal without its permission. (2) A member shall not withdraw from employment until the member has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, complying with rule 3-700(D), and complying with applicable laws and rules. B0 Mandatory Withdrawal. A member representing a client before a tribunal shall withdraw from employment with the permission of the tribunal, if required by its rules, and a member representing a client in other matters shall withdraw from employment, if: (1) The member knows or should know that the client is bringing an action, conducting a defense, asserting a position in litigation, or taking an appeal, without probable cause and for the purpose of harassing or maliciously injuring any person; or (2) The member knows or should know that continued employment will result in violation of these rules or of the State Bar Act; or (3) The member's mental or physical condition renders it unreasonably difficult to carry out the employment effectively. Permissive Withdrawal. If rule 3-700(B) is not applicable, a member may not request permission to withdraw in matters pending before a tribunal, and may not withdraw in other matters, unless such request or such withdrawal is because: (1) The client (a) insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law, or (b) seeks to pursue an illegal course of conduct, or (c) insists that the member pursue a course of conduct that is illegal or that is prohibited under these rules or the State Bar Act, or (d) by other conduct renders it unreasonably difficult for the member to carry out the employment effectively, or (e) insists, in a matter not pending before a tribunal, that the	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	As employees of the Family Law Information Centers the Center attorneys will not, by definition and statute, establish an attorney-client relationship with the litigants they assist. Termination of employment issues regarding the Center attorneys will be handled by the courts which employ them according to the terms of their employment contracts.

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member engage in conduct that is contrary to the judgment and advice of the member but not prohibited under these rules or the State Bar Act, or (f) breaches an agreement or obligation to the member as to expenses or fees. (2) The continued employment is likely to result in a violation of these rules or of the State Bar Act; or (3) The inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal; or (4) The member's mental or physical condition renders it difficult for the member to carry out the employment effectively; or (5) The client knowingly and freely assents to termination of the employment; or (6) The member believes in good faith, in a proceeding pending before a tribunal, that the tribunal will find the existence of other good cause for withdrawal. Papers, Property, and Fees. A member whose employment has terminated shall: (1) Subject to any protective order or non-disclosure agreement, promptly release to the client, at the request of the client, all the client papers and property. "Client papers and property" includes correspondence, pleadings, deposition transcripts, exhibits, physical evidence, expert's reports, and other items reasonably necessary to the client's representation, whether the client has paid for them or not; and (2) Promptly refund any part of a fee paid in advance that has not been earned. This provision is not applicable to a true retainer fee which is paid solely for the purpose of ensuring the availability of the member for the matter.		
Chapter 4. Financial Relationship With Clients		
Rule 4-100. Preserving Identity of Funds and Property of a Client All funds received or held for the benefit of clients by a member or law firm, including advances for costs and expenses, shall be deposited in one or more identifiable bank accounts labeled "Trust Account," "Client's Funds Account" or words of similar import, maintained in the State of California, or, with written consent of the client, in any other jurisdiction where there is a substantial relationship between the client or the client's business and the other jurisdiction. No funds belonging to the member or the law firm shall be deposited therein or otherwise commingled therewith except as follows: (1) Funds reasonably sufficient to pay bank charges. (2) In the case of funds belonging in part to a client and in part presently or potentially to the member or the law firm, the portion belonging to the member	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information	Since the Family Law Center attorneys do not represent the litigants that they assist and the litigants will not be paying for the services of the Center attorneys, there is no need for the Centers attorneys to have trust accounts. Further, since the Center attorneys will not have possession of any litigant funds, there is no need to keep these non-existant funds

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
or law firm must be withdrawn at the earliest reasonable time after the member's interest in that portion becomes fixed. However, when the right of the member or law firm to receive a portion of trust funds is disputed by the client, the disputed portion shall not be withdrawn until the dispute is finally resolved. A member shall: (1) Promptly notify a client of the receipt of the client's funds, securities, or other properties. (2) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable. (3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the member or law firm and render appropriate accounts to the client regarding them; reserve such records for a period of no less than five years after final appropriate distribution of such funds or properties; and comply with any order for an audit of such records issued pursuant to the Rules of Procedure of the State Bar. (4) Promptly pay or deliver, as requested by the client, any funds, securities, or other properties in the possession of the member which the client is entitled to receive. The Board of Governors of the State Bar shall have the authority to formulate and adopt standards as to what "records" shall be maintained by members and law firms in accordance with subparagraph (B)(3). The standards formulated and adopted by the Board, as from time to time amended, shall be effective and binding on all members. Standards: Pursuant to rule 4-100(C) the Board of Governors of the State Bar adopted the following standards, effective January 1, 1993, as to what "records" shall be maintained by members and law firms in accordance with subparagraph (B)(3). (1) A member shall, from the date of receipt of client funds through the period ending five years from the date of appropriate disbursement of such funds, maintain: (a) a written ledger for each client on whose behalf funds are held that sets forth: (i) the name of such client, (ii) the date, amount and source of all funds received on behalf of such client, (iii) the date, amount, payee and purpose of each disbursement made on behalf of such client, and (iv) the current balance for such client; (b) a written journal for each bank account that sets forth: (i) the name of such account, (ii) the date, amount and client affected by each debit and credit, and (iii) the current balance in such account; (c) all bank statements and cancelled checks for each bank account; and (d) each monthly reconciliation (balancing) of (a), (b), and (c). (2) A member shall, from the date of	Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	separate from the attorneys' own funds. The Center attorneys will have no financial dealings with the Centers or the customers other than as employees who are paid a wage pursuant to their contracts with their courts.

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
receipt of all securities and other properties held for the benefit of client through the period ending five years from the date of appropriate disbursement of such securities and other properties, maintain a written journal that specifies: (a) each item of security and property held; (b) the person on whose behalf the security or property is held; z (c) the date of receipt of the security or property; (d) the date of distribution of the security or property; and (e) person to whom the security or property was distributed. (Trust Account Record Keeping Standards as Adopted by the Board of Governors on July 11, 1992, effective January 1, 1993.)		
Rule 4-200. Fees for Legal Services A member shall not enter into an agreement for, charge, or collect an illegal or unconscionable fee. Unconscionability of a fee shall be determined on the basis of all the facts and circumstances existing at the time the agreement is entered into except where the parties contemplate that the fee will be affected by later events. Among the factors to be considered, where appropriate, in determining the conscionability of a fee are the following: (1) The amount of the fee in proportion to the value of the services performed. (2) The relative sophistication of the member and the client. (3) The novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly. (4) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the member. (5) The amount involved and the results obtained. (6) The time limitations imposed by the client or by the circumstances. (7) The nature and length of the professional relationship with the client. (8) The experience, reputation, and ability of the member or members performing the services. (9) Whether the fee is fixed or contingent. (10) The time and labor required. (11) The informed consent of the client to the fee.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers.However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	The Family Law Information Center attorneys will not be charging a fee for the services they provide to the litigants at the Centers. Therefore, there is no need for a rule governing the legality or conscionability of the fees charged.
Rule 4-210. Payment of Personal or Business Expenses Incurred by or for a Client A member shall not directly or indirectly pay or agree to pay, guarantee, represent, or sanction a representation that the member or member's law firm will pay the personal or business expenses of a prospective or existing client, except that this rule shall not prohibit a member: (1) With the consent of the client, from paying or agreeing to pay such expenses to	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of	The Family Law Information Center attorneys will not having any financial dealings whatsoever with the litigants they assist.

ULES & CONTENT	*PROPOSAL*	*RATIONALE*
third persons from funds collected or to be collected for the client as a result of the representation; or (2) After employment, from lending money to the client upon the client's promise in writing to repay such loan; or (3) From advancing the costs of prosecuting or defending a claim or action or otherwise protecting or promoting the client's interests, the repayment of which may be contingent on the outcome of the matter. Such costs within the meaning of this subparagraph (3) shall be limited to all reasonable expenses of litigation or reasonable expenses in preparation for litigation or in providing any legal services to the client. (B) Nothing in rule 4-210 shall be deemed to limit rules 3-300, 3-310, and 4-300. (Amended by order of Supreme Court, operative September 14, 1992.)	the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	Therefore, the Center attorneys will not be in a position to pay business or personal expenses on behalf of the litigants assisted at the Centers.
Rule 4-300. Purchasing Property at a Foreclosure or a Sale Subject to Judicial Review A member shall not directly or indirectly purchase property at a probate, foreclosure, receiver's, trustee's, or judicial sale in an action or proceeding in which such member or any lawyer affiliated by reason of personal, business, or professional relationship with that member or with that member's law firm is acting as a lawyer for a party or as executor, receiver, trustee, administrator, guardian, or conservator. B. A member shall not represent the seller at a probate, foreclosure, receiver, trustee, or judicial sale in an action or proceeding in which the purchaser is a spouse or relative of the member or of another lawyer in the member's law firm or is an employee of the member or the member's law firm. (Amended by order of Supreme Court, operative September 14, 1992.)	is rule should be modified as forth below. Family Law Information Center orney shall recognize the he/sheis a representative of the court and, such, shall avoid all acts of propriety, or the appearance of propriety, at all times.	ould be inappropriate for a Center attorney purchase property from any court related e where the Center attorney had assisted e of the parties involved in the sale. en if a Center attorney had not had any tact with a party to the sale, an appearance impropriety could result from a Center orney's participation in a sale overseen or ducted by the court where the attorney is ployed.
le 4-400. Gifts From Client A member shall not induce a client to make a substantial gift, including a testamentary gift, to the member or to the member's parent, child, sibling, or spouse, except where the client is related to the member.	is rule should be modified as set th below. Family Law Information Center orney shall not accept any form gifts, favors, bequests, or loans	e Family Law Center attorneys are court ployees. As such they must avoid any earance of impropriety, partiality, or flict between their duties and the needs the litigants they assist. They are to remain tral and independent at all times. The

STATE BAR OF CALIFORNIA

Rules of Professional Conduct

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
	m the litigants who they assist as s may give the appearance of propriety or partiality, except as horized by local rules or ctice.	cept of accepting gifts from the litigants n direct conflict with these principles. ese concepts are derived from the California de of Judicial Conduct, Canons 1, 2, 3, and non 1 states: "A judge should uphold the egrity and independence of the judiciary." non 2 states: "A judge should avoid propriety and the appearance of impropriety all of the judge's activities." non 3 states: "A judge should perform the ties of judicial office impartially and igently." non 4 states: "A judge should so conduct judge's quasi-judicial and other extra- icial activities as to minimize the risk of flict with judicial obligations." l of these Canons and principles make it ar that accepting gifts, as a general practice, violates these principles. wever, some counties have local rules and toms regarding gifts from customers. It is t the intent of these ethical guidelines to erride local customs and rules regarding the eptance of nominal gifts of gratitude.

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Rules of Professional Conduct

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
Chapter 5. Advocacy and Representation		
le 5-100. Threatening Criminal, Administrative, or Disciplinary Charges A member shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute. As used in paragraph (A) of this rule, the term "administrative charges" means the filing or lodging of a complaint with a federal, state, or local governmental entity which may order or recommend the loss or suspension of a license, or may impose or recommend the imposition of a fine, pecuniary sanction, or other sanction of a quasi-criminal nature but does not include filing charges with an administrative entity required by law as a condition precedent to maintaining a civil action. As used in paragraph (A) of this rule, the term "civil dispute" means a controversy or potential controversy over the rights and duties of two or more parties under civil law, whether or not an action has been commenced, and includes an administrative proceeding of a quasi-civil nature pending before a federal, state, or local governmental entity.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	As employees of the Family Law Information Centers the Center attorneys will not, by definition and statute, establish an attorney-client relationship with the litigants they assist. Therefore, the Center attorneys will not be in the position of having any reason to "obtain an advantage in a civil dispute". In addition, the Family Law Information Center attorneys will be neutral, i.e., not on either side of the dispute between the litigants that they assist. Therefore, again, they will not be in a position to try to "obtain an advantage in a civil dispute". To the extent that such actions might be taken by a Center attorney, the proposed rule set forth above regarding avoiding acts or appearance of impropriety should apply.
Rule 5-110. Performing the Duty of Member in Government Service A member in government service shall not institute or cause to be instituted criminal charges when the member knows or should know that the charges are not supported by probable cause. If, after the institution of criminal charges, the member in government service having responsibility for prosecuting the charges becomes aware that those charges are not supported	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of	The Family Law Information Center attorneys will not be in a position to file criminal charges against the litigants they assist in the Centers.

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
by probable cause, the member shall promptly so advise the court in which the criminal matter is pending.	the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	

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Rules of Professional Conduct

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
Rule 5-120. Trial Publicity A member who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the member knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter. Notwithstanding paragraph (A), a member may state: (1) the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved; (2) the information contained in a public record; (3) that an investigation of the matter is in progress; (4) the scheduling or result of any step in litigation; (5) a request for assistance in obtaining evidence and information necessary thereto; (6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or the public interest; and (7) in a criminal case, in addition to subparagraphs (1) through (6): (a) the identity, residence, occupation, and family status of the accused; (b) if the accused has not been apprehended, the information necessary to aid in apprehension of that person; (c) the fact, time, and place of arrest; and (d) the identity of investigating and arresting officers or agencies and the length of the investigation. Notwithstanding paragraph (A), a member may make a statement that a reasonable member would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the member or the member's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.	This rule should be modified as set forth below. A Family Law Information Center attorney shall, at all times, comply with Family Code section 15010(h), and shall not make any public comment about the litigants and/or a pending or impending matter in the court.	Family Code section 15010(h) states: "A person employed by, or directly supervised by, an employee of the family law information center shall not make any public comment about a pending or impending proceeding in the court as provided by paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics. All persons employed by, or directly supervised by, an employee of the family law information center shall be given a copy of paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics, and shall be required to sign an acknowledgment that he or she is aware of its provisions." Complying with this statute should address the concerns raised in Rule 5-120.
Rule 5-200. Trial Conduct In presenting a matter to a tribunal, a member: Shall employ, for the purpose of maintaining the causes confided to the member such means	This rule is inapplicable to attorneys who are employed by the	The Family Law Information Center attorneys will not be presenting any matters

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Rules of Professional Conduct

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
only as are consistent with truth; Shall not seek to mislead the judge, judicial officer, or jury by an artifice or false statement of fact or law; C. Shall not intentionally misquote to a tribunal the language of a book, statute, or decision; Shall not, knowing its invalidity, cite as authority a decision that has been overruled or a statute that has been repealed or declared unconstitutional; and Shall not assert personal knowledge of the facts at issue, except when testifying as a witness.	Family Law Information Centers in their capacity as employees of the Centers.However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers. To the extent that the Family Law Information Center attorneys assist litigants in their presentations before the court, as self-representing parties, the following proposed rule should apply: An attorney working in a Family Law Information Center shall, at all times, uphold the independence and integrity of the Center in conjunction with its role within the court and the legal system. In addition, the following proposed rule is also applicable: A Family Law Information Center attorney shall recognize that he/she is a representative of the court, and, as such, shall avoid all acts of impropriety, or the	to a tribunal as they do not, by statute, represent the litigants they assist in the Centers. However, the Center attorneys will have significant contact with the litigants they assist, and they will be in a position to influence the litigants by their actions, deeds and statements. Therefore, at all times, the Center attorneys must be cognizant of the their roles as an employees of the court, and act accordingly.

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
	appearance of impropriety.	
Rule 5-210. Member as Witness A member shall not act as an advocate before a jury which will hear testimony from the member unless: The testimony relates to an uncontested matter; or The testimony relates to the nature and value of legal services rendered in the case; or The member has the informed written consent of the client. If the member represents the People or a governmental entity, the consent shall be obtained from the head of the office or a designee of the head of the office by which the member is employed and shall be consistent with principles of recusal.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	As employees of the Family Law Information Centers the Center attorneys will not, by definition and statute, establish an attorney-client relationship with the litigants they assist. Therefore, they will not be in the position of being called as a witness in a case which involves a client they represent.
Rule 5-220. Suppression of Evidence A member shall not suppress any evidence that the member or the member's client has a legal obligation to reveal or to produce.	This rule is inapplicable to attorneys who are employed by the Family Law Information Centers in their capacity as employees of the Centers. However, this rule should continue to apply to attorneys employed by the Family Law Information Centers when and if they are practicing law in a context separate and apart from their employment at the Centers.	As employees of the Family Law Information Centers the Center attorneys will not, by definition and statute, establish an attorney-client relationship with the litigants they assist. However, to the extent that a Center attorney addresses an evidentiary issue when assisting a Center litigant, the proposed rules should apply. The fact that there is not attorney client relationship does not negate the need for ethical rules addressing this potential ethical

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
	If a Family Law Information Center attorney is in the position of a addressing an evidentiary matter, the Center attorney shall abide by the following proposed rule: A Family Law Information Center attorney shall recognize that he/she is a representative of the court, and, as such, shall avoid all acts of impropriety, or the appearance of impropriety.	problem. The Center attorneys, as employees and representatives of the court, should be held to similar ethical standards as private attorneys to protect and insure the integrity of the courts.
Rule 5-300. Contact With Officials A member shall not directly or indirectly give or lend anything of value to a judge, official, or employee of a tribunal unless the personal or family relationship between the member and the judge, official, or employee is such that gifts are customarily given and exchanged. Nothing contained in this rule shall prohibit a member from contributing to the campaign fund of a judge running for election or confirmation pursuant to applicable law pertaining to such contributions. A member shall not directly or indirectly communicate with or argue to a judge or judicial officer upon the merits of a contested matter pending before such judge or judicial officer, except: (1) In open court; or (2) With the consent of all other counsel in such matter; or (3) In the presence of all other counsel in such matter; or (4) In writing with a copy thereof furnished to such other counsel; or (5) In ex parte matters. As used in this rule, "judge" and "judicial officer" shall include law clerks, research attorneys, or other court personnel who participate in the decision-making process. (Amended by order of Supreme Court, operative September 14, 1992.)	This rule should be modified as set forth below. A Family Law Information Center attorney shall avoid all ex parte communications with any bench officer that offer an opinion as to how the bench officer should rule on a case pending before the bench officer. A Center attorney, as an arm of the court, may neutrally provide factual information to the bench if such factual information is requested by the bench officer. Communications with regard to purely procedural matters or the functioning of the court are	The role of the Family Law Information Center attorneys is neutral and independent. They do not, by statute, represent the litigants they assist. Therefore, they are not in a representational or adversarial role where they are attempting to convince the court that one side or the other should prevail. In this neutral role they should never make statements to any bench officer in the nature of or for the purpose of persuading the bench officer to rule one way or another. On the other hand, these attorneys may have pertinent, critical, factual information that is necessary and relevant to the court's ruling, as well as to the safety and well being of the parties and their children.

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
	allowed.	If asked, the Center attorneys should be able to provide the bench officers with neutral, factual information to assist the bench officers to make the best ruling for all involved. Further, the Center attorneys should be allowed to have communications with bench officers that are purely procedural in nature or which address the smooth functioning of the court.
Rule 5-310. Prohibited Contact With Witnesses A member shall not: Advise or directly or indirectly cause a person to secrete himself or herself or to leave the jurisdiction of a tribunal for the purpose of making that person unavailable as a witness therein. Directly or indirectly pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of the witness's testimony or the outcome of the case. Except where prohibited by law, a member may advance, guarantee, or acquiesce in the payment of: (1) Expenses reasonably incurred by a witness in attending or testifying. (2) Reasonable compensation to a witness for loss of time in attending or testifying. (3) A reasonable fee for the professional services of an expert witness.	This rule should be modified as set forth below. A Family Law Information Center attorney shall recognize that he/she is a representative of the court, and, as such, shall avoid all acts of impropriety, or the appearance of impropriety.	As court employees, Family Law Information Center attorneys have an obligation to uphold the integrity of the judicial process. Any unauthorized contact with a witness would be a violation of the proposed rule set forth in the adjacent column.

Rule 5-320. Contact With Jurors A member connected with a case shall not communicate directly or indirectly with anyone the member knows to be a member of the venire from which the jury will be selected for trial of that case. During trial a member connected with the case shall not communicate directly or indirectly with any juror. During trial a member who is not connected with the case shall not communicate directly or indirectly concerning the case with anyone the member knows is a juror in the case.	This rule should be modified as set forth below. A Family Law Information Center attorney shall recognize that he/she is a representative of the court, and, as such, shall avoid all	As court employees, Family Law Information Center attorneys have an obligation to uphold the integrity of the judicial process. Any unauthorized contact with a juror, or the jury process, would be a violation of the proposed rule set forth in the adjacent

RULES & CONTENT	*PROPOSAL*	*RATIONALE*
After discharge of the jury from further consideration of a case a member shall not ask questions of or make comments to a member of that jury that are intended to harass or embarrass the juror or to influence the juror's actions in future jury service. A member shall not directly or indirectly conduct an out of court investigation of a person who is either a member of a venire or a juror in a manner likely to influence the state of mind of such person in connection with present or future jury service. F. All restrictions imposed by this rule also apply to communications with, or investigations of, members of the family of a person who is either a member of a venire or a juror. A member shall reveal promptly to the court improper conduct by a person who is either a member of a venire or a juror, or by another toward a person who is a either a member of a venire or a juror or a member of his or her family, of which the member has knowledge. This rule does not prohibit a member from communicating with persons who are members of a venire or jurors as a part of the official proceedings. For purposes of this rule, "juror" means any empaneled, discharged, or excused juror. (Amended by order of Supreme Court, operative September 14, 1992.)	acts of impropriety, or the appearance of impropriety.	column.

California Family Law Facilitators
ETHICAL GUIDELINES

Adopted at a meeting of Facilitators in Palm Springs, February 17, 1999

I. INTRODUCTION

The following ethical guidelines are adopted by the California Family Law Facilitators and are intended to provide assistance to Facilitators and to the Courts in addressing the issues of the role, responsibilities and limitations of Family Law Facilitators pursuant to Family Code section 10000 et seq. They are termed "guidelines" in recognition of the fact that the California Family Law Facilitators have established these standards among themselves to assist in the performance of their duties. At most, the collective Facilitators may be able to provide further interpretation and guidance upon request by an individual facilitator or court.

Implicit in these guidelines is the recognition that the needs of and conditions in the 58 California counties vary widely, and therefore, strict adherence to one set of guidelines is neither possible nor even desirable in every county. These guidelines should, then, be viewed as stating an ideal standard for addressing the subject matter of the specific guidelines. It is recommended that if the court in any particular county finds it necessary to vary from the guideline, that some alternative measures be taken to address the underlying conflict between the guideline and the local guideline in the county where the conflict exists.

II. AVOIDING APPEARANCE OF IMPROPRIETY.

Facilitators shall uphold the integrity and independence of the Court at all times.

Facilitators shall, at all times, show respect for and comply with the laws of this State, and act in a manner that promotes public confidence in the integrity and impartiality of the judicial system.

III. DUTIES

A Facilitator shall faithfully perform his/her duties in a competent manner and in conformance with the law. These duties include, but are not limited to:

1. Providing information to the pro per litigants to assist them in obtaining adequate and meaningful access to the appropriate court.
2. Bringing to the attention of the Court any rule, procedure, practice or policy which tends to restrict access of pro per litigants to their legal remedies, and acting in a manner most likely to assist the Court in removing such barriers.

Facilitators shall require any person under their supervision, paid or volunteer, to comply with these standards and shall directly address any violations as soon as possible after becoming aware of the conduct.

IV. IMPARTIALITY

Facilitators shall carry out these duties in a respectful, patient and courteous manner both as to the litigants and as to other Court personnel. Facilitator shall perform their duties without bias or prejudice, and should not, by word or conduct, manifest bias or prejudice, including, but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.

California Family Law Facilitators
ETHICAL GUIDELINES

Additional provisions proposed at Palm Springs, 2/17/99

I. Add to section on AVOIDING THE APPEARANCE OF IMPROPRIETY:

The Family Law Facilitator shall not represent a party who has contacted or been referred to the Facilitator for assistance. A Facilitator should take all reasonable measures to avoid the appearance that he/she is representing a party. To this end a Facilitator should not:

1. Give advice or information to a party that he/she is assisting that he/she would not he/she would not freely give if the other party were also present;
2. Maintain a file on an individual litigant in the Facilitator's office, other than the official Court file in the litigant's case;
3. Contact third parties regarding the substance of a party's case in the role of the party's advocate. Contacts with Court staff and other non-attorneys regarding procedural matters, scheduling, and file maintenance, and contacts with the District Attorney's office regarding clarification and facilitation of a party's file are permitted;
4. Conduct research for a party except to the extent that the research identifies the statute or case under which the party is proceeding. Doing extensive research regarding an individual situation and writing points and authorities applying the facts of the party's case to that research goes beyond the scope of the services and duties anticipated by the Family Law Facilitator Act.

II. Add to the enumerated DUTIES:

3. In response to inquiries, may provide referral information about appellate remedies, disqualification of bench officers and complaint procedures, State Bar complaints, complaints about mediators, evaluators, special masters or other referees, and other complaint procedures about Court staff and/or Court procedures.

Facilitators shall endeavor to maintain the privacy of the parties with whom they have contact.

III. Add a new section entitled NOTICE OF SCOPE OF SERVICES

The Facilitators shall provide each litigant with notice that shall include, at a minimum, the following information:

1. The Facilitator does not represent the party;
2. The party understands that communications with the Facilitator are not

confidential; and

3. The party understands that the Facilitator may also assist the other party in the action.

Events have somewhat overtaken us on this issue as these disclosures are now required by SB 240.

IV. Add a new section entitled EX PARTE COMMUNICATIONS:

1. A Facilitator should avoid all *ex parte* communications with any judicial officer regarding a case which is before the judicial officer unless the communication is with regard to purely procedural matters or to the functioning of the Court. A Facilitator may have limited *ex parte* communication with a judicial officer where the following conditions have been met:
   a. The Court has referred the parties to the Facilitator for mediation of an issue pending before the Court;
   b. There has been a noticed motion filed by one of the litigants and served on the other party; and
   c. After meeting with the parties, the Facilitator delivers the Court file and conveys the stipulation to the judicial officer who referred the parties to the Facilitator.

2. A Facilitator should avoid any *ex parte* communication with an attorney who represents a litigant before the Court with regard to that litigant's case except for purely procedural matters.

V. Add a new section entitled CONFLICTS OF INTEREST:

If a Facilitator has in the past acted as attorney for a party and that same party or the opposing party approaches the Facilitator seeking services regarding the same case in which the Facilitator had acted as counsel,

1. A Facilitator may proceed to provide services if both parties are informed of the potential conflict, and both sign a written waiver.
2. If, however, the Facilitator feels that he/she is privy to sensitive information from one party which, if known to the other party, could substantially affect the outcome of the case, or if the Facilitator feels that he/she has developed a particularly close relationship with one party which would affect his/her ability to provide neutral, objective information to either of the parties, then the Facilitator should not provide facilitator services to either party.
3. Some possible alternatives for dealing with conflict of interest include:

   a. Referring the parties to another Facilitator in the same or an adjoining county; or
   b. Referring the parties to a volunteer attorney who will provide the services

which would otherwise have been provided by the Facilitator involved in the conflict.

VI. Add a new section entitled PRACTICE OF LAW:

A Facilitator should not practice law in the same Court where he/she is working as a Facilitator. If there are special circumstances that exist in a county which warrant an exception to this rule, then appropriate measures should be taken to address these circumstances with the goal of minimizing the appearance of a breach of neutrality on the part of the Court.

VII. Add a new section entitled FACILITATOR AS PRO TEM, SPECIAL MASTER, OR OTHER REFEREE:

Whenever a Facilitator is acting on behalf of the Court as a Pro Tempore Judge, Special Master, or other referee, the Facilitator shall comply with all of the applicable California Code of Judicial Conduct.
All of the provisions of the Code of Judicial Conduct shall be complied with except the following sections:

4C(2) - appointment to governmental positions.
4C(3)(a) - leadership in organizations devoted to law.
4C(3)(b) - leadership in civic/charitable organizations.
4D(1)(b) - transactions with persons likely to come before the court.
4D(2) -participation in business entities and managing investments.
4D(3) -managing financial interests to minimize disqualifications.
4D(4) -acceptance of gifts, bequests, favors, and loans.
4E - Fiduciary activities.
4F - service as arbitrator.
4G - practice of law.
4H - compensation for extrajudicial activities.
5A - political activity.

A Facilitator shall not act as a Facilitator for either party after he/she has been the Judge Pro Tem, Special Master, or other referee in the case. However, the Facilitator may continue to meet with the parties jointly.

FAMILY LAW INFORMATION CENTER DISCLOSURE

The Family Law Information Center is available to help both parents and other parties who are low-income and have questions about family law issues and how to proceed with a legal action regarding a family law matter. The Family Law Information Center can help you in preparing your own forms and can give you general information. The Family Law Information Center staff cannot go with you to court.

The attorney at the Family Law Information Center IS NOT YOUR LAWYER, but is a neutral person who does not represent any parent or party. There is no attorney-client relationship between you and any person at the Family Law Information Center.

The Family Law Information Center may provide information and services to the other party in your case.

Communications between you and the Family Law Information Center staff are not confidential. You should consult with your own attorney if you want personalized advice or strategy, to have a confidential conversation, or to be represented by an attorney in court.

The Family Law Information Center is not responsible for the outcome of your case.

I have read this *Disclosure* or have had it read to me. I understand this document.

Date:

_____ ▶ _____

(TYPE OR PRINT NAME) (SIGNATURE)

I have translated or read the statement to the person requesting services.

Date:

_____ ▶ _____

(TYPE OR PRINT NAME) (SIGNATURE)

STATEMENT REGARDING PUBLIC COMMENTS

As a staff member or volunteer in the Office of the Family Law Facilitator, you have certain ethical duties as a part of the court.

Family Code section 10014 provides that:

> *A person employed by, or directly supervised by, the family law facilitator shall not make any public comment about a pending or impending proceeding in the court as provided by paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics. All persons employed by or directly supervised by the family law facilitator shall be provided a copy of paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics, and shall be required to sign an acknowledgement that he or she is aware of its provisions.*

Paragraph (9) of subdivision (B) of Canon 3 of the Code of Ethics states:

> *A judge shall not make any public comment about a pending or impending proceeding in any court, and shall not make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This Canon does not prohibit judges from making statements in the course of their official duties or from explaining for public information the procedures of the court, and does not apply to proceedings in which the judge is a litigant in a personal capacity. Other than cases in which the judge has personally participated, this Canon does not prohibit judges from discussing in legal education programs and material, cases and issues pending in appellate courts. This educational exemption does not apply to cases over which the judge has presided or to comments or discussions that might interfere with a fair hearing of a case.*

"Nonpublic information" is defined by the Terminology section of the Code of Judicial Ethics is:

> *"information that, by law, is not available to the public. Non public information may include but is not limited to information that is sealed by statue or court order, impounded, or communicated in camera; and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports."*

ACKNOWLEDGMENT

I acknowledge that I have read and am aware of the provisions of the Canons of Judicial Ethics. I understand that they are binding on me in the scope of my paid or volunteer by the Office of employment by the Family Law Facilitator.

Date: _____ *Signature:* _____

Name: _____

OFFICE OF THE FAMILY LAW FACILITATOR DISCLOSURE

The Family Law Facilitator is available to help both parents and all other parties who have questions about family law issues, including child support, spousal support, health insurance, and the availability of community resources to help families. The Family Law Facilitator can help you in preparing your own forms and can give you general information. The Family Law Facilitator cannot go with you to court.

The Family Law Facilitator IS NOT YOUR LAWYER, but is a neutral person who does not represent any parent or party. There is no attorney-client relationship between you and the Family Law Facilitator.

The Family Law Facilitator may provide information and services to the other party in your case.

Communications between you and the Family Law Facilitator are not confidential. You should consult with your own attorney if you want personalized advice or strategy, to have a confidential conversation, or to be represented by an attorney in court.

The Family Law Facilitator is not responsible for the outcome of your case.

I have read this *Disclosure* or have had it read to me. I understand this document.

Date:

_____ (TYPE OR PRINT NAME)

▶ _____ (SIGNATURE)

I have translated or read the statement to the person requesting services.

Date:

_____ (TYPE OR PRINT NAME)

▶ _____ (SIGNATURE)

2001 California Rules of Court

Rule 1208. Minimum standards for the office of the family law facilitator

(a) [Authority] These standards are adopted pursuant to Family Code section 10010.

(b) [Family law facilitator qualifications] The Office of the Family Law Facilitator must be headed by at least one attorney, who is an active member of the State Bar of California, known as the family law facilitator. Each family law facilitator shall possess the following qualifications:

(1) A minimum of five years experience in the practice of law, which shall include substantial family law practice including litigation and/or mediation;

(2) Knowledge of family law procedures;

(3) Knowledge of the child support establishment and enforcement process under Title IV-D of the federal Social Security Act (42 U.S.C. § 651 et seq.);

(4) Knowledge of child support law and the operation of the uniform state child support guideline; and

(5) Basic understanding of law and psychological issues related to domestic violence.

(c) [Substituted experience] Courts may substitute additional experience, skills, or background appropriate to their community for the qualifications listed above.

(d) [Desirable experience] Additional desirable experience for a family law facilitator may include experience in working with low-income, semiliterate, unrepresented, or non-English-speaking litigants.

(e) [Service provision] Services may be provided by other paid and volunteer members of the Office of the Family Law Facilitator under the supervision of the family law facilitator.

(f) [Protocol required] Each court must develop a written protocol to provide services when a facilitator deems himself or herself disqualified or biased.

(g) [Training requirements] Each family law facilitator should attend at least one training per year for family law facilitators provided by the Judicial Council.

Rule 1208 adopted effective January 1, 2000.

Drafter's Notes
2000-New rule 1208 provides standards for experience, training, and means of providing service for the Office of the Family Law Facilitator, as required by Family Code section 10010.