

## Working Group #2 Communication Self-Assessment Form

Communication problems are the second most common rule violation seen in the Office of Attorney Regulation Counsel. And when you are the subject of a complaint, your practice suffers.

Simply put, communicating clearly with your client can contribute to a healthy, thriving law practice.

Colo. RPC 1.4 addresses the lawyer’s duties to communicate with the client. The rule is mandatory, not permissive. Lawyers must communicate with clients about certain things related to the representation and in a timely manner. Notably, Colo. RPC 1.4(a) requires the communication of information concerning fees charged, costs, expenses, and disbursements to the client. Other procedures not mandated by the Rules can nonetheless help prevent client misunderstanding that often lead to ethics complaints. Creating written policies establishing minimum communication standards expected of you, your employees, and your clients goes a long way toward this goal.

Questionnaire	Yes	No	N/A	Ethical Implications	Other Resources
<b>Communication Policy for Employees</b>					
Do you have a written policy regarding communication with clients?					<a href="#">Example communications policy</a>  <a href="#">Hiring and Working with an Attorney</a>  <a href="#">CBA Ethics Op. 90</a>
Which communication modes are appropriate/preferred (phone, mail, email, text)?				<a href="#">Colo. RPC 1.4(a)(3)</a> requires lawyers to “promptly comply with reasonable requests for information.” If, for example, a client is communicating with a lawyer via text message, the lawyer may be expected to use that mode of communication <i>unless</i> the client has been informed of a policy that states otherwise.	<a href="#">“Handling Clients’ Text Messages” Wisconsin Lawyer</a>
What is the expected response time for phone calls/emails/texts?				<a href="#">Colo. RPC 1.4(a)(3)</a> requires lawyers to “promptly comply with reasonable requests for information.”	
What is the expected frequency of lawyer-initiated updates on case when no activity?				<a href="#">Colo. RPC 1.4</a> requires lawyers to “promptly” notify clients of decision or orders and “promptly” respond to requests by the clients for information.	
Will clients be copied on all correspondence?					

## Working Group #2 Communication Self-Assessment Form

Do you confirm in writing any text- or phone-based client communication?				The use of texting to communicate with clients has become more common among lawyers but creates its own set of issues; for example, some mobile phone companies retain texts for only a short period of time. Thus, it is important that a lawyer maintain a record of text communications independent of relying upon the ability to subpoena them.	
When will changes/status updates in case be relayed to clients?				<a href="#">Colo. RPC 1.4</a> requires lawyers to “promptly” notify clients of decision or orders.	
Have you ensured that confidentiality requirements under Colo. RPC 1.6 are met?					<a href="#">Colo. RPC 1.6</a>
Are client instructions to the attorney confirmed in writing?					
Do you provide a copy of the policy to your clients as part of their engagement letter?					<a href="#">Hiring and Working with an Attorney</a>
Do you have a process to ensure continued compliance with the policy by associates and staff? <ul style="list-style-type: none"> <li>• You circulate/disseminate the policy to staff</li> <li>• New staff are asked to read and sign the policy</li> <li>• You regularly review the communications policy with staff.</li> <li>• Compliance with communications policy is a factor in performance reviews</li> </ul>					
<b>Communication with Clients</b>					
Do you communicate with clients in a manner that is respectful of the client and their needs?					<a href="#">Colo. RPC 1.6</a> <a href="#">Colo. RPC 8.4(g)</a>

## Working Group #2 Communication Self-Assessment Form

Are clients asked their preferred method of communication?				Clients should be advised of possible confidentiality issues with attorney-client communications via email and text.	<a href="#">Colo. RPC 1.6</a>
Is communication done in a professional, timely, and efficient manner?					<a href="#">Colo. RPC 1.4</a>
Are clients advised of the best method(s) to contact the lawyer?					<a href="#">Colo. RPC 1.4</a>
Are clients advised of the expected and appropriate frequency and method of communications?					
Are clients' privacy and confidentiality protected?					<a href="#">Colo. RPC 1.6</a>
Are language barriers, if any, addressed?					<a href="#">"Representing Clients with Limited English Proficiency," ABA Litigation News</a>
Are communications with clients reflective of cultural competence, equity, and diversity?					<a href="#">Colo. RPC 8.4(g)</a>
Do clients need to designate someone else with whom you can communicate on their behalf about the matter?				If the client grants permission for you to communicate with someone else on his/her behalf, you should discuss any limitations on those communications and potential confidentiality issues that may arise.	<a href="#">Colo. RPC 1.6</a>
Do you have a standard engagement letter that communicates: <ul style="list-style-type: none"> <li>• Expected fees?</li> <li>• Billing policies?</li> <li>• Services covered?</li> <li>• How and when the relationship will be terminated?</li> <li>• A disclaimer that no specific outcome is guaranteed?</li> </ul>				<a href="#">Colo. RPC 1.5(b)</a> requires attorneys to provide clients with a written "basis or rate of the fee and expenses" within a reasonable time of beginning the representation.	<a href="#">ABA article on sample engagement letters and fee agreements</a>  <a href="#">Georgia Bar's sample engagement letter</a>

## Working Group #2 Communication Self-Assessment Form

Are clients provided with regular cost updates at a frequency and in a form that suits their needs?					
Are clients informed of what is expected of them? <ul style="list-style-type: none"> <li>• Truthful information</li> <li>• Timely communication</li> <li>• Updated contact information</li> </ul>					<a href="#">Hiring and Working with an Attorney</a>
<b>Communication with Prospective Clients</b>					
Are your advertisements, including your website, free of false or misleading statements?				Statements about you/the firm must be independently verifiable.	<a href="#">Colo. RPC 7.1</a> <a href="#">Colo. RPC 7.2</a> <a href="#">BBB's Code of Advertising</a>
Do your advertisements contain any statements that are likely to create an unjustified expectation of results?					<a href="#">Colo. RPC 7.1</a> <a href="#">Colo. RPC 7.2</a> <a href="#">BBB's Code of Advertising</a>