

Sample LLP Ethics Questions

Applicants will have 45 multiple-choice questions in which they must apply the Colorado LLP Rules of Professional Conduct to select the correct answer. They will have one and a half hours to complete this portion of the LLP exam. Below are three sample questions that are not on the exam. After the three questions, an explanation is provided as to the correct answers.

1. Alice is an LLP representing Maria in a marital dissolution in which the petition already has been filed. Maria runs a local restaurant, and one evening, Alice meets her friend at Maria's restaurant for dinner. As Alice and her friend are being seated, Maria briefly greets Alice by name. Alice has been meaning to ask Maria a quick question about repairs needed to her house pursuant to a settlement proposal. Alice must conform her response to the LLP Rules of Professional Conduct by which of the following:

- a. Alice must tell her friend that she does not know Maria.
- b. In front of Alice's friend, Alice cannot ask Maria anything about her marital dissolution, and therefore cannot ask anything relating to repairs needed to sell the house.
- c. In front of Alice's friend, Alice can ask Maria about anything relating to her marital dissolution because the petition is a public court filing and ownership of the house is a matter of public record.
- d. In front of Alice's friend, Alice can ask Maria about anything in the petition for marital dissolution because it is a public court filing, and can ask about the house because its ownership is a matter of public record, but cannot ask about any confidential details of the case.

2. Max recently hired LLP Carlos to request a modification of child support. Max told Carlos that he lost his well-paying job a year ago, and is now just working odd jobs for cash. Max told Carlos that his annual income is now just \$40,000 a year. Carlos plans to file a motion or stipulation to modify using Max's updated income. Carlos is at a social gathering where a close friend of Max tells Carlos that Max actually is making "good money" in "sales," but that Max is being secretive about it. When Carlos is back in the office, he asks Max to come in for a meeting.

Initially Max was unavailable because he was in Las Vegas “on a business trip.” When the meeting is finally scheduled, Max arrives in a new, expensive car, lending credibility to what Carlos had heard at the social gathering. Carlos asks Max to be honest with him about his income. Max acknowledged his income was more than \$40,000 but would not say how much. He tells Carlos: “Your job is to tell the court whatever I say is my income, and it is none of your business how I make my money.” Under the LLP Rules of Professional Conduct, which of the following is correct?:

- a. Because Max is the paying client, Carlos must complete the sworn financial statement using the \$40,000 Max claimed is his annual income, even though Carlos knows \$40,000 is a false statement.
- b. Carlos can prepare a motion or stipulation to modify but must not complete the sworn financial statement for Max. However, Carlos can allow Max to complete it using the \$40,000 figure and attach it to the filing.
- c. Carlos can tell Max that Carlos cannot allow false information to be filed with the court, and that either Max needs to be forthright about his income – which needs to be at a level that would justify filing a motion to modify -- or Carlos will withdraw from the representation.
- d. Carlos can compromise with Max, listing \$80,000 a year for income on the sworn financial statement, which Carlos thinks is fair given that Max is being uncooperative.

3. Sam is an LLP who, in his personal life, makes monthly payments pursuant to a child support order entered 10 years ago. Recently Sam has incurred a lot of medical debt and has started paying only half his child support while he tries to pay off some of his medical debt. Sam plans to file a motion to modify his child support obligation if he cannot get the medical debt paid off in the next 12 months. Which is correct about Sam’s failure to pay his full court-ordered child support?:

- a. Sam has violated LLP Colo. RPC 3.4(c) because he is knowingly not complying with a court order.

- b. During the time Sam is not paying his full court-ordered child support, he cannot represent clients who also are not current with their child support obligations.
- c. Sam's failure to pay the full amount of child support does not violate any LLP Rules of Professional Conduct because the medical debt is not his fault and he intends to come into compliance in the future.
- d. Sam's failure to pay the full amount of child support does not violate any LLP Rules of Professional Conduct because the non-compliance is occurring in his personal life.

Explanation of correct answers

Question 1: This question tests an applicant’s understanding of Colo. LLP RPC 1.6, confidentiality of client information. Paragraph (a) states that an LLP must “not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b).” The facts here do not provide any details that would fall within paragraph (b), so the question is what constitutes “information relating to the representation of a client,” and whether the client has given informed consent or impliedly authorized Alice as the LLP to disclose such information to her friend.

The scope of information relating to the representation of a client is broad, and the mere fact that an LLP is representing a client in a case that can be found in publicly available court filings does not mean the client has given informed consent, nor that the LLP is impliedly authorized to discuss the case with others not involved in the case. Accordingly, answers c. and d. are incorrect.

In Question 1, Maria’s brief greeting of Alice in Maria’s restaurant does not provide informed consent or imply authorization for Alice to discuss Maria’s case with Alice’s friend. Even though friends might socially discuss repairs needed to their house, Maria’s plan to sell her house is part of the representation of her as a client, and Alice cannot bring up that issue in this setting. If Alice’s conversation with Maria informs her friend—someone not involved in the case—that Maria is a client, Alice is effectively disclosing that Maria has domestic relations legal issues, which itself is confidential client information under Colo. LLP RPC 1.6.

Accordingly, b. is the correct answer. Answer a. is incorrect because the rules do not require LLPs to make an affirmative misrepresentation in order to avoid disclosing confidential information.

Question 2: Question 2 tests an LLP applicant’s understanding of Colo. LLP RPC 3.3, as well as Colo. LLP RPC 3.1. An LLP cannot make a false statement of fact to a tribunal, including false statements in court filings. An LLP also cannot offer evidence the LLP knows to be false. Furthermore, Rule 3.3.(a)(3) states “An LLP may refuse to offer evidence that the LLP reasonably believes is false.” Therefore,

a. is incorrect. Answer b. also is incorrect because Carlos as the LLP would be filing Max's sworn financial statement as if it contained correct information when Carlos knew was false. Answer d. also is incorrect, because \$80,000 is essentially a made-up income that Max would be affirming under penalty of perjury was true and correct.

Answer c. is correct. LLPs cannot continue to represent a client who intends to deceive the court and cannot be persuaded otherwise. Carlos also must keep in mind that Max's true income may disqualify him from lowering his child support obligations, and therefore it could be a violation of Colo. LLP RPC 3.1 to file a motion to modify that clearly does not qualify for relief.

Question 3: Question 3 tests an LLP applicant's understanding of Colo. LLP RPC 3.4(c), which provides that an LLP must not "knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists." Rule 3.4 is not limited to situations in which an LLP is representing a client, and therefore can apply to an LLP's personal legal affairs. So, answer d. is incorrect. Other than the "open refusal based on an assertion that no valid obligation exists," it does not matter why the LLP is not in compliance – the rule is still violated. So, answer c. is incorrect, and answer a. is correct.

Answer b. is a classic "red herring." It seems to invite the applicant to consider Colo. LLP RPC 1.7(a)(2), specifically a "personal interest" conflict. Under this rule, an LLP would have a conflict in representing a client if "there is a significant risk that the representation ... will be materially limited ... by a personal interest of the LLP." But, generally speaking, the mere fact that an LLP has personal experience in a situation similar to the LLP's client does not present a personal interest conflict. In fact, an LLP's personal experience with the judicial system and family law matters can be educational for the LLP and help the LLP empathize with clients. Therefore, answer b. is incorrect.