

ETHICS AND COURTROOM DEMEANOR

OVERVIEW

This section focuses on your ethical obligations as participants in the Trial by Peers program, as well as your expected demeanor while in the courtroom. You have already distinguished yourself by becoming involved in this program - much is expected of you but you are definitely up to the task. You also have an important obligation to keep confidential the information you learn about the participants in this program.

ETHICAL DUTIES AS PEER COUNSELORS IN THE TRIAL BY PEERS PROGRAM

Ethics are defined as the body of moral principles or values governing, or distinctive of, a particular culture or group. Ethics are also rules of conduct followed by an individual. There are certain expectations of you when you serve in the Trial by Peers program:

- You are expected not to engage in criminal activity or problem behaviors.
- You are expected to be a good role model for others.
- You are expected to take the Trial by Peers program seriously and your actions must reflect that.
- You are expected to be prepared for each case.
- You are expected to pay attention while in court.
- You are expected to be on time for court.
- You are expected to tell the truth.
- You are expected to be a zealous advocate for your client.
- You are expected to not knowingly present false testimony to the court.
- You are expected to dress appropriately while in court.
- You are expected to meet deadlines.
- You are expected to show respect to the defendants, parents, other Peer Counselors, Senior Attorneys, Trial by Peers staff and court staff.

DUTY OF CONFIDENTIALITY

You are required to keep confidential all information that you learn while participating in the Trial by Peers program. This includes the defendants' names and the facts of the cases. Even if you know information that you believe is helpful to a defendant, you are not allowed to disclose that information to anyone. Here is a hypothetical to illustrate this point:

You are with a group of your friends and someone starts talking about a student in your school who is a defendant in the Trial by Peers program. You are tempted to tell them some of the reasons why the student has troubles – things you learned while representing this student at his trial.

Should you say anything?

NO – even if you believe this information could be helpful, you are not to disclose it. To reveal any of the information that you learned while representing that student would be a violation of your duty of confidentiality, regardless of your motive for doing so.

DUTY TO AVOID CONFLICT

You have a duty to avoid conflicts of interest. You cannot participate in a case involving someone you know or have had dealings with in a way that would not allow you to be fair. For example, let's say you had a confrontation with a fellow student and never resolved it – leaving you feeling resentment or hurt. Later, during your participation in the Trial by Peers program, you were asked to defend this student against charges brought against him. You might not be able to set aside your personal feelings and do the best job you could in defending him. Therefore, you should bring this to the attention of Trial by Peers staff and not represent this student at his trial.

PEER COUNSELOR OBLIGATIONS WHEN PREPARING YOUR CASE

- You should advise your clients, using your best judgment.
- You should follow through with agreed contacts. For example, if you promised to contact a client or senior attorney at 4:00 p.m. on Monday, do so. If you mistakenly forget, it is crucial that you call the person, apologize, and reset the contact date.
- You should evaluate each case on the basis of the actions and the evidence presented. You will have defendants in youth court who are different from you. They may be from a rival school, a different economic background, a different racial or ethnic group, a different religious group, etc. Stereotyping people hurts the fairness of the proceedings. Sometimes people think they are being fair and do not realize how their bias or stereotypes affect them.

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SOME POINTS TO REMEMBER WHEN PREPARING YOUR CASES

1. Never underestimate your opponent.
2. Do not make idle threats, it undermines your credibility.
3. Do not embarrass your opponent, or the defendant.
4. On a weekly basis, review all of your open matters to ensure that each one is being worked appropriately and that nothing has fallen through the cracks.
5. Never promise success to your client.
6. Always remember your obligation to uphold your standards, your ideals and your ethical obligations as a Peer Counselor with the Trial by Peers program.
7. Anticipate your opponent's counter-arguments – it is a strategic decision whether to raise and rebut these arguments before your opponent raises them.
8. At trial, it is always better to ask a question that you know the answer to. There may be times, however, when you are willing to take a chance by asking a question without confidence that you know the response.
9. Do not accept non-responsive replies from witnesses or defendants. Keep asking the question until it is answered.
10. Learn when to stop asking questions. Once you get your answer, move on.
11. Do not assume a settlement attitude.
12. Unless you have something to say, do not say anything. Let your opponent, the witness, or the defendant fill the silence. It will pay off.
13. Do not expect the judge to take sides between counsel.
14. Do not be afraid to use biblical, literary or historical references to make your points to the jury, especially in closing. The purpose of using such stories and references is to put your case into a framework that the jury is familiar with, and that they can understand and to which they relate.
15. Have one calendar that has your entire professional (Trial by Peers) as well as your personal schedules and obligations on it.
16. In a criminal defense case, your client, the accused, decides:
 - i) Whether to plead Guilty or Not Guilty;
 - ii) Whether or not to plea bargain and if so what to accept; and,
 - iii) Whether or not to take the stand and testify.
17. All other matters should be ultimately decided by you as counsel - strategies, theory of the case, defense(s) to use or abandon, objections, etc.

18. As the defense counsel, do not concede anything; make the prosecutor prove beyond a reasonable doubt every element of every offense charged against your client.
19. It is the prosecutor's job at trial to create an error free trial record.
20. No matter what happens at the trial, leave your frustrations and concerns in the courtroom. If you feel that things are not right, talk with your senior attorney or a Trial by Peers staff member.

PROPER COURTROOM ATTIRE

You must be appropriately dressed when you are appearing in court. No jeans, hats, tank tops, ripped or torn clothing, nothing with writing on it that offend others, no mini dresses or skirts, and nothing too revealing or extremely tight. You are representing the Trial By Peers program and must show respect for the court.

Female Peer Counselors

Skirts, dresses and pantsuits are acceptable. Please use the fingertip rule when assessing the length of a skirt or dress: If you hang your arms at your sides, the hem should be no shorter than your fingertips. Your hair should be combed neatly. Long Hair can be worn up or down.

Male Peer Counselors

Suits, pants, jackets, button-down shirts and polo shirts are all fine. Hair neatly combed.

PROPER COURTROOM Demeanor

Demeanor is defined as being one's conduct, behavior, deportment, and facial appearance. There are certain expectations of attorneys that are unique to the courtroom environment:

- You should stand when addressing the Court.
- You need to ask the judge for permission to move around during your argument or witness questioning.
- You need to ask the judge for permission to approach the bench.
- Do not raise your voice to or yell at the judge.
- You must be respectful of the other attorneys, witnesses and court staff.

Of course, you should also show good manners – do not speak when others are speaking; if you must consult with your client or co-counsel while the court is in session, you must whisper and do your best not to cause an unnecessary distraction.