

KANSAS

HOLISTIC

DEFENDERS

Effective Communication With “Difficult” Clients

Ethical Rules

We will review the ethical and statutory rules relating to client communications and how we can meet those obligations for clients with whom communication is difficult.

Validation

Using the Six Steps of Validation, we’ll learn some tools to improve conversations with clients, especially clients who are highly emotionally reactive, or who have personality disorders like BPD.

Self-Understanding

We’re going to look at common pitfalls, such as codependence or a desire for control, which can crop up in the client relationship and think through how to avoid those patterns of thought and action.

Important Ethical Rules on Communication

Rule 1.4

Keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 1.14

When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

Rule 1.1

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.



What Is Validation?

To acknowledge and accept someone else's inner experience, their thoughts, feelings, and behaviors as valid and understandable.

It is seeing the wisdom in another's experience given their current circumstances in the present moment.

You don't have to **agree with the conclusion**, but you show them you are able to see and understand **how they come to their conclusion**.



Invalidation

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Abandonment

People who have BPD or other attachment disorders are extremely sensitive to signs of betrayal, abandonment, or negative judgement from others.

The Six Steps of Validation can be used in all client conversations to show the client that you understand them, respect their interests, and that you can be relied upon to give adequate attention to the problems they find themselves in.

Meeting a Client is Showtime



Showing Up To Inspire Confidence and Comfort

Some of the worst racial disparities in the justice system happen outside of the courtroom

- **Employment** - A criminal record can cause job loss or lack of future employment. Black people face 2x as much discrimination for a criminal record on job applications than white
- **Housing**- A misdemeanor conviction can lead to eviction. In Kansas, it is legal for landlords to discriminate against renters on the basis of a prior drug offense. (K.A.R. 21-60-15).
- **Fines and Fees** - Fines and fees that a defendant lacks the means to pay can create a cascade of future legal system involvement.

Level 1 - Be Present, and Show Active Listening

The first step is showing the client that you are actively listening to them. It can be hard to be fully present, to not let your mind wander, not multi-task or give in to distraction. Level one is to give your client your full-attention.

Put your phone down, make eye-contact, and pay attention to what they are saying. You should use your body language to validate that you fully hear what your client is saying.

Level 2 - Accurately Reflect What Your Client Told You

Level one is about showing your client that you are listening to what they said; level two is about showing you heard them accurately.

Once your client has told you something, summarize what you heard and check for accuracy. The most effective way to do this is paraphrasing and repeating back your client's feelings.

Give an opportunity for the client to correct errors in your summary, or make adjustments.

Level 3 - Articulate Your Client's Non-Verbal Communication

Reading a client's behavior and emotional state and guessing what they might be thinking or feeling is an important key to validation.

It is important to address statements like, "I'm fine" or "it's not a big deal," when your client's body language does not match their statements. You can help a client identify their feelings by addressing their body language and the possible thoughts behind their words and actions. "If I were in your position, I would be feeling pretty frustrated. Is that how you're feeling?"

Level 4 - Validate Their Behavior in Terms of Their History

Level four involves listening to your client's current experiences and feelings and putting those into the lens of your client's past.

You want to emphasize that what they are thinking or feeling makes sense given their history.

Asking yourself how your client's history informs their current situation, and how their past helps them make sense of what they are experiencing today, can help you empathize with your client instead of dismissing their feelings, thoughts, and actions.

Level 5 - Validate Their Behavior in Terms of Their Circumstances

Feelings are facts -it is a fact that this person is feeling something, and that their circumstances are the reason why.

Observe your client's feelings and connect those to a larger human experience.

This can help alleviate your client's feelings of isolation and overwhelmedness. Additionally, it gives your client a sense that their emotions are not strange or inappropriate, but normal.

Level 6 - Be Radically Genuine

The last level of validation happens when you respond in the moment to your client's emotions and experience, human to human.

You can bring in your experiences, your flaws, and your humanity to show your client that you're a person too. This shows that you truly care and genuinely want to support your client.

Radical genuineness may come in the form of laughing or crying with your client or giving a hug.

Validation vs. Control

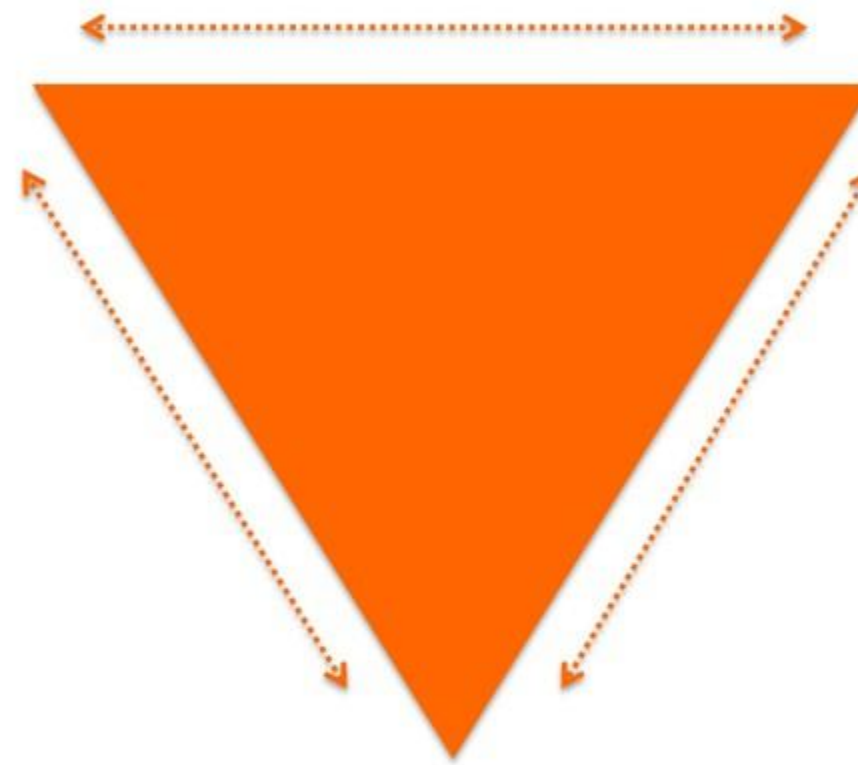
Validation involves giving dignity, power and a sense of reality back to a client.

Those struggling to validate clients may struggle with a desire to control clients under the guise of helping.

DRAMA TRIANGLE

(Steven Karpman)

RESCUER
'saves' people
he sees as
vulnerable.
Works hard,
offers "help"
unasked for.



PERSECUTOR
unaware of his
own power and
therefore
discounting it.
Power used is
negative and often
destructive.

VICTIM
overwhelmed by
own vulnerability,
doesn't take
responsibility for
own situation

Rule 1.2 - The Client Decides

(a) A lawyer shall abide by a client's decisions concerning the lawful objectives of representation, subject to paragraphs (c), (d), and (e), and shall consult with the client as to the means which the lawyer shall choose to pursue. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent in writing

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

(e) When a lawyer knows that a client expects assistance not permitted by the rules of professional conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.