

LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD

UPDATE: September 2019

Outreach & Press
Press: No new press since the last meeting
Statistics & Other Events
Recent Events: <ul style="list-style-type: none">Summer 2019 LLLT Exam Applicants: 4 applicants sat for Family Law exam; 2 applicants sat for Professional Responsibility Exam Upcoming Events: <ul style="list-style-type: none">Steve Crossland will participate in a panel for a presentation on Independent Paralegals with the Organizing Committee for the ABA Unauthorized Practice of Law School, November 7-8 in Chicago, ILPresentation and Q&A with paralegal students at Spokane Community College – November 13, 2019 LLLT Statistics – LLLT Mandatory Supplemental Education: <ul style="list-style-type: none">31 LLLTs have completed the supplemental education12 LLLTs have not completed the supplemental education (7 are active, 4 are inactive, and 1 is suspended) LLLT Statistics – General: <ul style="list-style-type: none">Number of current LLLTs: 434 LLLTs are inactive1 LLLT is suspended
Meetings
Recent: <ul style="list-style-type: none">LLLT Board Meeting on August 28, 2019 (by conference call) Upcoming: <ul style="list-style-type: none">LLLT Board Meeting on October 7, 2019



WASHINGTON STATE
BAR ASSOCIATION

LIMITED LICENSE LEGAL TECHNICIAN
FAMILY LAW EXAMINATION STUDY GUIDE
SEPTEMBER 2019

DRAFT

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INTRODUCTION

An LLLT will be engaged in the limited practice of law under Admission and Practice Rule (APR) 28. Therefore thorough knowledge of APR 28 is required. For success and accuracy in the family law practice area, an LLLT should have general knowledge of child custody actions, dissolution/legal separation actions, domestic violence/other protection order actions, committed intimate relationship actions, relocation actions, child support actions, community property principles, paternity actions, and other related subjects and services available to clients with family law issues. A successful LLLT candidate should also be able to identify those matters and issues beyond the LLLT's scope of practice in family law. Study and review of these objectives should enable you to fully prepare for the examination.

The LLLT Family Law Practice Area Exam is four-and-a-half hours long and has two sessions. There will be a 15minute break between the two sessions.

The first session is the written portion of the exam. There will be an essay section with three essay questions and a performance part with one performance test question. You will have three hours to complete these parts of the exam; an hour-and-a-half should be allotted to complete the essays and an hour-and-a-half hour for the performance test.

The second session is the multiple choice part of the exam. You will have 90 minutes to answer 50 questions. The questions are a mix of simple short answer questions, mostly testing definitions or RCW's, and longer analytical questions that will present a fact pattern and require you to apply your knowledge to select the **BEST** answer. You should plan to spend no more than one minute on each simple question and no more than three minutes on each analytical question.

In order to pass the exam, you must receive a score of 75% or higher on each of the three parts of the exam (multiple choice, essay, and performance). Failing one section will require retaking the entire exam. There is no appeal process for licensing exam results.

Study Materials: APR 28, Scope of Practice Regulation 2, LLLT RPCs, RCW Title 26, *Washington Family Law Deskbook*, *Washington Community Property Deskbook*.

EXAM TOPICS

I. CHILD CUSTODY

Custody Basics

Parenting Plans: Initial, minor modifications, and major modifications

Non-Parental Custody

Adequate Cause

Basis for Restrictions on Custody Order

Application of UCCJEA, Continuing Jurisdiction from Home State & ICWA

Contempt Issues

Appointment of Guardian Ad Litem v. Evaluators

II. DISSOLUTION/LEGAL SEPARATION

Family Law Basics: Marriage Defined

Dissolution Petition

Final Orders

Legal Separation v. Dissolution

III. EX PARTE AND TEMPORARY ORDERS

Temporary Orders

Ex Parte Notice Requirements

Ex Parte Orders

IV. DOMESTIC VIOLENCE AND PROTECTION ORDERS

Domestic Violence Protection Orders (DVPOs)

Anti-harassment, Criminal No-Contact, Anti-stalking, Sexual Assault, Extreme Risk

Personal Emergency and Jurisdiction

Mediation and Alternative Dispute Resolution

Domestic Violence: Safety Planning

V. COMMITTED INTIMATE RELATIONSHIP ACTIONS

Committed Intimate Relationship Basics

Jointly-Acquired Committed Intimate Relationship Property Issues

VI. MAINTENANCE & SUPPORT

Maintenance

Child Support

Medical Benefits

Disability Benefits

Administrative Child Support Hearings

VII. COMMUNITY PROPERTY/PROPERTY DIVISION

Basic Debt and Asset Division and Management

Division of Retirement Assets Which Require Supplemental Order(s) to Divide or Award

Division of Real Property

Prenuptial Agreements/Separate Property Agreements

Voluntary Disposition

Creditors and Involuntary Disposition

VIII. PARENTAGE

Paternity Actions

IX. RELOCATIONS

Relocation Petitions

Contested Relocations

X. ADDITIONAL TOPICS

Family Law Basics—Family Law Court Assistance

Domestic Partnership Basics

Child Advocacy & Welfare: Child Welfare System

Discovery: Privilege

Alternative Dispute Resolution

Depositions

Servicemembers' Civil Relief Act

XI. SCOPE OF LLLT PRACTICE

Outside of Scope:

De Facto Parentage

Indian Child Welfare Act

UCCJEA

Adoption

Bankruptcy

Dual Representation

CONCEPTS FOR STUDY

GENERAL CONCEPTS

1. Know the types of actions that can be undertaken by LLLTs in domestic relations.
2. For each of these types of actions, know the procedure from filing to completion for both the petitioner and respondent (where appropriate).
3. Know which approved family law forms are appropriate in given circumstances and how to complete all approved family law forms.
4. Know that when real property and/or retirement account division exceeds LLLT's limit, LLLTs may complete the petition for dissolution/legal separation by indicating the division will be determined by the court at a later date.
5. Given a specific fact scenario, be able to
 - a) Identify issues that need to be addressed or resolved.
 - b) Develop an action plan.
 - c) Create a client to-do list.
 - d) Select and complete appropriate forms.

I. CONTESTED CHILD CUSTODY

1. Know the legal standard used in all domestic relations orders directly involving children.
2. Know the types of actions that are beyond the scope of permitted practice for LLLTs in domestic relations.
3. Know what can be established in a parenting plan.
4. Know what can be ordered in a child support order.
5. Understand the differences between a minor versus a major parenting plan modification and be able to identify examples of each.
6. Know when a major modification is considered contested.
7. Know when an adequate cause hearing is required.
8. Know the factors required for filing a non-parental custody petition.
9. Know the factors required for filing a contested major modification.
10. Know when parties may stipulate to a modification of parenting plan outside of court (i.e. CR2A, arbitration, mediation).
11. Know when the court is required to issue sole decision-making authority to one parent.
12. Know the mandatory and discretionary standards for determining decision making authority.
13. If a child custody order is issued as part of a domestic violence protection order, know the longest span of time it may be in effect.
14. Know how to inform the court about substance abuse issues (etc.) in parenting plans in order to establish a sufficient legal basis for restrictions.
15. Know the factors the court considers when making residential provisions in a permanent parenting plan. Know which of these factors carry the greatest weight.
16. Know the factors that may be grounds for limiting residential time with a parent.
17. Know the impact of parental limitations on a custody order.
18. Know when supervised visitation is mandatory.
19. Where a parent is found to have a sexual abuse conviction, know whether the court must order supervised visitation.
20. Know when it is appropriate to file a motion for contempt in a parenting plan action.

21. Know when it is appropriate to file a motion for contempt with regard to child support or maintenance.
22. Know the statutory relief prescribed and procedural requirements of RCW 26.18.160 in regards to defaults on child support and maintenance.
23. Know the legal standard for a finding of contempt.
24. Understand when emergency jurisdiction applies under the UCCJEA and its practical limitations.
25. Know the length of time the parties must have lived in Washington for Washington to be considered the children's home state for the purpose of establishing a custody order or parenting plan regarding the children.
26. Understand the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and Indian Child Welfare Act (ICWA) and when each applies in a custody action. Be able to identify when an LLLT should refer a client to an attorney for help with this issue.
27. Understand the procedure for getting one court to decline to exercise its jurisdiction so that a more convenient court can exercise its jurisdiction.
28. Know under what circumstances a party may waive mediation and ask for only court action.
29. Know the options regarding dispute resolution that may be placed in a parenting plan.

II. DISSOLUTION/LEGAL SEPARATION

1. Know what is important to include in the original petition for dissolution.
2. Define "joinder" and identify what is required for a joinder.
3. Know when a party is in danger of defaulting in terms of a dissolution action.
4. Know when a moving party may file a motion for default in a dissolution action.
5. Know the standards for determining venue when a motion for change of venue has been filed.
6. Understand the importance of the "home state" in determining jurisdiction.
7. Understand why it is important to have dates of marriage and separation included in the final orders.
8. When anticipating a default, understand why it is important the final orders be consistent with the relief requested in the petition for dissolution and when it may be necessary to file and serve an amended petition for dissolution.
9. Know the forms of relief granted in a final order that may be modified and under what circumstances.
10. Explain what a "hold harmless" clause is.
11. Know when final orders may be modified.

III. EX PARTE AND TEMPORARY ORDERS

1. Know the procedure for entering a temporary parenting plan.
2. Know what evidence should be presented under RCW 26.09.194 for obtaining a temporary parenting plan.
3. Know what types of temporary orders can be obtained in a domestic relations action.
4. Know when it is appropriate to go in ex parte for an immediate restraining order rather than providing notice and setting a hearing on a motion for temporary orders.
5. Know the duration of a temporary order.
6. Know a party's options when s/he has been served with an ex parte order without having received notice of the ex parte hearing.

7. Know the duration of an ex parte restraining order.
8. Know if and what notice a party is required to provide to the other party when seeking an ex parte restraining order.

IV. DOMESTIC VIOLENCE AND PROTECTION ORDERS

1. Know the legal standard for obtaining a DVPO.
2. Know the eligibility requirements for obtaining a DVPO (age, etc.).
3. Know when it may be possible to obtain an emergency DVPO in ex parte court with or without giving notice to the opposing party.
4. Define “domestic violence” per the statute.
5. Define a “family or household member” in a domestic violence action.
6. Understand when one type of protective order might be preferable to the other.
7. Know the process for terminating or modifying a domestic violence protection order (DVPO).
8. Know the factors considered by the court in determining whether there has been a “substantial change in circumstances” to warrant modifying a protection order that is of two or more year’s duration.
9. Know which order takes precedence where there are conflicting orders in a family law matter (e.g., a protection order and a criminal no-contact order, parenting plan v. protection order, temporary order v. criminal no-contact order, parenting plan v. dependency order).
10. Know when a DVPO may last longer than one year for a child.
11. Know when a person may renew their protection order before it expires and how to do so.
12. Name the different types of restraining orders that exist and know the differences between each.
13. Know upon whom the burden of proof falls when seeking a renewal of a protection order.
14. Know the procedure for obtaining a protection order for a child in Washington if the child’s home state is not Washington.
15. Know when Section 3.10 of the parenting plan should include limiting factors on a parent’s residential time based on RCW 26.09.191 restrictions in Sections 2.1 and 2.2 of the parenting plan.
16. Know which restrictions are appropriate to propose in a parenting plan in cases of domestic violence.
17. Know the standards for determining venue in an initial protection order proceeding.
18. Know under what circumstances a person may obtain a protection order against someone who does not live in Washington State.
19. Understand that taking legal action can increase risk of abuse in some domestic violence cases and the impact on the client.
20. Know resources that a domestic violence survivor may access to get further help assessing risks and making plans that can increase chances of staying safe.
21. Explain how a Violence Against Women Act (VAWA) petition or U-Visa can impact a family law case.
22. Know what provisions in landlord/tenant law protect survivors of domestic violence.

V. COMMITTED INTIMATE RELATIONSHIPS

1. Define and be able to identify the factors relevant to determining whether something is a committed intimate relationship (CIR).
2. Understand parenting plans and child support for unmarried parents.
3. Understand how community property applies in a CIR.
4. Be able to recognize when a CIR issue goes beyond the LLLT scope of practice.

VI. MAINTENANCE & SUPPORT

1. Know the factors the court uses to determine whether awarding maintenance is appropriate.
2. Know the limitations, if any, on the duration of maintenance.
3. Know when maintenance is modifiable and the procedure for doing so.
4. Know how child support obligations are determined in Washington.
5. Know what is included in "income" for the purposes of calculating child support.
6. Know what is included in "gross income" for the purposes of calculating child support.
7. Know what income must be disclosed to the court to determine child support.
8. Know what types of income and what types of deductions considered in calculating child support, particularly when a party may have some income from self-employment. Know allowable expenses that may be included in child support worksheets.
9. Know when a child support order may be modified and the procedure for doing so.
10. Know the circumstances under which a court may find a party in contempt of a child support order.
11. Know the procedure for obtaining a contempt order against a party in a domestic relations matter.
12. Define "transfer payment" and identify when a party is most likely to have to pay a transfer payment.
13. Know the circumstances under which the court may grant a party a deviation from the standard child support obligation.
14. Understand how responsibility for medical benefits for children may be apportioned in a domestic relations matter.
15. Know what percentage of the basic child support obligation health insurance for children must **NOT** exceed.
16. Understand how responsibility for medical benefits for ex-spouses may be apportioned in a dissolution matter.
17. Understand the difference between Supplemental Security Income (SSI) and Social Security Disability Income (SSDI). Understand how each may affect a child support calculation if the party receives the disability benefits.
18. Know what Temporary Assistance for Needy Families (TANF) is and how it may affect a child support action, including when the Division of Child Support may become a party to the action.
19. Understand the administrative hearing process in child support cases, including pre-hearing conferences, administrative hearings, and relief through a Conference Board.
20. Be familiar with administrative hearing rights and notices.
21. Understand the Division of Child Support's role in providing support enforcement services.

22. Know how to request enforcement of a superior court issued child support order.

VII. COMMUNITY PROPERTY/PROPERTY DIVISION

1. Know the legal standard the court uses to award property in a dissolution action.
2. In a dissolution action, know the property over which the court has jurisdiction.
3. Know the factors the court uses to award property in a legal separation action.
4. Know what a prenuptial/separate property agreement is and be able to recognize one.
5. Define "community property."
6. Define "separate property."
7. Understand community and separate property principles and be able to recognize examples of each.
8. Explain how property of one character can be changed to property of another character.
9. Know how to distinguish between the character of property and the rights of reimbursement.
10. Know the implications on property of married couples living separately and apart.
11. Know when division of retirement benefits and real property are beyond the scope of permitted practice.
12. Understand the legal implications of taking title in one or both spouse's names.
13. Know what rules apply when gifts or sales of community property are made by one spouse.
14. Know under what circumstances one party may be held individually liable for contract and tort obligations that were incurred during the marriage. Know the management rules related to community property.
15. Know a remedy available if a spouse dissipates or hides assets during the dissolution process or before the dissolution process begins.
16. Know what decisions are at the court's discretion in terms of dividing community property.
17. Know the default rules for distributing property upon the death of one spouse.
18. Understand how one spouse may bind the community to an obligation.
19. Understand how responsibility for obligations is determined in a dissolution action.
20. Understand what a client should expect if an ex-spouse who is ordered to pay obligations does not pay the obligations.
21. Know the basic rules for creditor rights against the couple's property for contract and tort obligations.
22. Understand what remedies may be available to spouses where a specific asset is indivisible in dissolution actions.
23. List the benefits a service member receives as a result of his/her employment that may be at issue in a domestic relations matter. Be able to identify which of these benefits, if any, an LLLT may assist a client in the division of.
24. Provide examples of owned real estate and retirement assets that would be outside the scope of practice for division.
25. List the circumstances under which an LLLT must advise a client to seek the advice of an attorney to deal with division of community property.

VIII. PARENTAGE

1. Describe the legal effect of signing a paternity affidavit.

2. Know the options for clients who wish to start a parentage action, where paternity has not been established.
3. Know how venue is determined in a parentage action.
4. Know when a client should file a parentage action versus a parenting and support action.
5. Know the procedure for filing a parentage action.
6. Know the remedies available in a parentage action.
7. Know the remedies **NOT** available to parties in parenting plan and child support actions that are available in dissolution actions.
8. Know whether parentage orders are treated as final parenting plans for purposes of modification.
9. Know the timeline to challenge a paternity affidavit.
10. Know the options available to a party who wishes to disestablish or rescind paternity.
11. Know the circumstances under which a party may rescind a paternity affidavit.
12. Know the factors that create a presumption of paternity.

IX. RELOCATIONS

1. Know the criteria used to determine whether or not a custodial parent may relocate.
2. Know when a party may relocate after serving a notice of intended relocation.
3. Know when a party may waive notice requirements in a relocation action.
4. Know the kinds of temporary relief available in a relocation action.
5. Know the process for initiating a relocation action.
6. Understand how domestic violence may impact a relocation action.
7. Know when an LLLT should **NOT** be involved in a relocation action.
8. Know the options for a party where the other party has already moved and never gave notice of intent to relocate.

X. ADDITIONAL TOPICS

1. Know the options available for evaluations and investigations in parenting actions.
2. Know the differences between a guardian ad litem (GAL), court appointed special advocate (CASA), parenting plan evaluator, and an independent investigator.
3. Know for what purpose a court may appoint a GAL or CASA.
4. Know what is outside of the scope of authority of a GAL or CASA.
5. Know the role of a parenting plan evaluator in contrast to a GAL and CASA.
6. Know the reasons a couple may choose a legal separation over a dissolution.
7. Know the asset/benefit/tax considerations that might be affected by choosing to file a dissolution rather than a legal separation.
8. Know when a legal separation may be converted to a decree of dissolution.
9. Define “state registered domestic partnership” and list the basic legal implications of a state registered domestic partnership.
10. Know the eligibility requirements in Washington State to become state registered domestic partners.
11. Know the procedure for dissolving a state registered domestic partnership.

12. Understand the implications of Referendum 74 on state registered domestic partnerships established prior to June 30, 2014.
13. Understand how domestic relations actions may be affected if there is a dependency action.
14. Understand the implications on a domestic relations action when a party is covered by either the federal Servicemembers Civil Relief Act or Washington State's Service Members' Civil Relief Act. List the notice requirements if the other party is a service member under either act.
15. Know the procedure for requesting a waiver of court fees for low-income litigants.
16. Understand how to identify when a person may be "judgment proof."
17. Know the difference between mediation, arbitration, and mediation-arbitration.
18. Be familiar with the terms of a CR2A Agreement/Separation Contract.
19. Know the difference between facilitative mediation and evaluative mediation.
20. Know how an LLLT may assist a client with depositions and what is outside the scope of practice for an LLLT for depositions.
21. List who may conduct a deposition.
22. Know the difference between a motion for reconsideration and a motion for revision.
23. For both a motion for reconsideration and motion for revision, know:
 - a) the legal authority for the motion.
 - b) the deadline for filing the motion.
 - c) the service deadline for the motion.
 - d) whether there is an automatic stay of the subject order in place while a motion is pending.
 - e) whether new evidence is permitted when requesting reconsideration/revision.
 - f) the permissible grounds for the motion.
 - g) whether the opposing party is permitted a response to the motion and by when.
 - h) whether oral argument is permitted on the motion.
 - i) when a hearing on reconsideration/revision should be scheduled.

XI. SCOPE OF LLLT PRACTICE

1. Define a non-parental custody action and know how to identify one.
2. List the actions, if any, an LLLT may undertake for a client with respect to non-parental custody actions.
3. Define a de facto parentage action and know how to identify one.
4. List the actions, if any, an LLLT may undertake for a client with respect to de facto parentage actions.
5. Understand the Indian Child Welfare Act (ICWA) and when it applies to a domestic relations action. Be able to identify when an LLLT should refer a client to an attorney for help with this issue.
6. Identify what an LLLT may assist a client with when a client and/or his/her spouse is in bankruptcy or is in the process of discharging a bankruptcy. Be able to identify when an LLLT must refer a client to an attorney for help with bankruptcy or other debt issues.
7. List when, if ever, an LLLT may represent both parties in a domestic relations action. Know how to respond to a request to represent both parties in a domestic relations action.
8. Know the limits of an LLLT's involvement in a hearing.

9. List the hearings at which an LLLT may advise and assist a client.
10. Know the limits on an LLLT's ability to communicate and/or negotiate with an opposing party or opposing counsel.
11. Know the limits of an LLLT's ability to negotiate a client's legal rights or speak on behalf of the client.
12. Know what is required before an LLLT may negotiate on behalf of a client.

SAMPLE QUESTIONS AND GRADING GUIDELINES

This study guide includes two sample essay questions and tips for preparing for the performance test. The answers and the grading guidelines for the essay questions are at the end of this guide so that you may test and score yourself. You should allow yourself 30 minutes to answer the essay question.

Sample Essay Question #1

John and Mary lived together in Seattle, Washington for three years. During that time a daughter, Jill, was born and John was listed as the father on the birth certificate. John enlisted in the army and was deployed to duty in Iraq. Just before he left, John and Mary were married. After two years of service John returned. Two years later another child, Fred, was born and Mary quit her job as a school teacher to stay at home with the children.

Two years later, Mary filed for a legal separation. At about the same time, John was notified that he was being transferred from a base in Washington to a base in California. Mary decided she would remain in Seattle with the children. Before he left, John met with you about Mary's refusal to go with him. You told him that there was no way to compel Mary to move if she did not want to. You helped him file a response to the petition for legal separation.

Six months later, after John has moved to California, Mary, who is still unemployed, comes to you requesting information about a dissolution. Mary does not want John to know that she is considering divorce.

Discuss:

1. Can you advise Mary about a dissolution? Why or why not? (Worth 20%)

Setting aside any possible ethical considerations raised by the facts as stated, analyze the following:

2. Please discuss issues regarding filing, service (including how long John has to respond), and jurisdiction over the children and for a dissolution. Are any of these requirements different because John is in the military or because he is stationed out-of-state? (Worth 45%)
3. What factors will the court consider when deciding if it will award child support for both children and maintenance for Mary? What process will the court follow to determine the appropriate amounts of any child support or maintenance? (Worth 35%)

Sample Essay Question #2

Sue and Greg married when they were both eighteen years old; they are both now 23. Sue began working at a fast food restaurant during high school and maintained that job after they were married. During the marriage, Greg worked as a salesman getting paid only by commissions on his sales.

Six months after they were married, twin girls were born. Greg was not happy about this pregnancy. Sue had to quit her job during the pregnancy so they were dependent on Greg's earnings to support the family. Sue did not work again after the twins' birth. However, Sue's grandmother left Sue a trust fund which will start paying her \$2,000 per month when she turns age 25 in less than two years.

When the children were four, Sue decided that she wanted a divorce and moved home to her parents with the twins. Sue took the family vehicle which was the only significant asset they owned. She also took the balance of \$78 in their joint banking account.

Greg told Sue he would not seek residential time with the twins in return for not having to pay child support. Sue is willing to agree to this.

The couple has several thousand dollars of medical bills from the birth of the girls as well as three credit card accounts that are at their limits. Sue does not believe she can pay the debts that the couple owes and wants to know her options. Sue wants to dissolve her marriage and seeks your advice both as to support for the twins and herself, and as to the debts incurred by the community.

Discuss:

1. What are the considerations for determining or imputing the income of each party to be used in setting child support? (Worth 40%)
2. How would you advise Sue as to the Court's likely ruling regarding the proposed residential time and child support agreement and why? (Worth 20%)
3. How would you advise Sue regarding the characterization and division of debts and assets in the dissolution? Discuss the effects of a hold harmless clause on the parties and on the rights of others. (Worth 40%)

Tips for Performance Test

The Family Law Practice Area Examination Performance Test normally consists of several components:

Reading a fact pattern. The fact pattern will describe a situation in which a LLLT's services would be used, introducing a client and some pertinent background information. Fact patterns for performance test are usually complex and will include multiple issues in each scenario. Examples of common issues included in performance tests are dissolution, custody disputes, division of personal property, domestic violence, substance abuse by a parent or guardian, LLLT scope, relocation, and parentage.

Analyzing supporting documentation. Often, performance tests will include court forms, declarations, financial statements or other documents that are intended to provide additional background and information for the test-taker. Closely read these supporting documents before completing the performance test tasks.

Completing tasks. Typical tasks include listing or selecting all forms that will be needed to complete the client's case, filling out pattern forms, answering several short answer questions regarding client advice, or translating information from the supporting documentation (such as a declaration or a CR2A agreement) into a pattern form. Most performance tests include 2-4 tasks.

The most substantial portion of the test will focus on demonstration of your mastery of the pattern forms; to prepare for the test, practice completing domestic relations pattern forms and know specifically how and when you would use each form. All tests after July 1, 2016 will use the plain language forms mandated for use by the Administrative Office of the Courts.

You will have 90 minutes to complete the performance test.

ANSWER KEYS

Sample Essay Answer #1

The LLLT has previously advised John about issues pertaining to Mary and the children. Therefore, the LLLT cannot advise Mary because there is a conflict of interest. The LLLT may refer Mary to another LLLT or an attorney.

The fact that John is in California does not make any difference to the jurisdiction where Mary can file for dissolution because Mary still resides in Washington. The Service Member's Civil Relief Act will apply when considering the civil procedure for this case; i.e., there are different time and notice requirements for service of process and a possible default of the opposing party. There may be a UCCJEA issue. The LLLT cannot determine if Washington has jurisdiction under the UCCJEA.

A court would determine child support for the children in a dissolution proceeding. The court will set child support in accordance with the statutory formula. In terms of maintenance the court will look at the length of the marriage and the ability to pay versus the need of the recipient. Mary quit her job as a school teacher and may need temporary maintenance to help her get back on her feet again and find work. Jill and Fred have the same legal status to receive child support regardless of when they were born in relation to the marriage.

Grading Guidelines

Issues	Comments/Percentage
1. Can you advise Mary about a dissolution? Why or why not? a. (20%) The LLLT cannot advise Mary because there is a conflict of interest. The LLLT may refer Mary to another LLLT or an attorney.	20%
2. Please discuss issues regarding filing, service (including how long John has to respond), and jurisdiction over the children and for a dissolution. Are any of these requirements different because John is in the military or because he is stationed out-of-state? a. (15%) The fact that John is in California does not make any difference to the jurisdiction where Mary can file for dissolution because Mary still resides in Washington. b. (15%) The Service Member's Civil Relief Act will apply when considering the civil procedure for this case; i.e., there are different time and notice requirements for service of process and a possible default of the opposing party. c. (5%) There may be a UCCJEA issue. d. (10%) Service out of state allows for 60 days to respond rather than 20.	45% a. RCW 4.28.185(1)(f) b. RCW Ch. 38.42 and/or 50 U.S.C. App., 501 et seq.
3. What factors will the Court consider when deciding if it will award child support for both children and maintenance for Mary? What process will the Court follow to determine the appropriate amounts of any child support or maintenance? a. (5%) The court will set child support during a dissolution proceeding in accordance with the statutory formula.	35%

- | | |
|--|--|
| <p>b. (10%) Jill and Fred have the same legal status to receive child support regardless of when they were born in relation to the marriage.</p> <p>c. (20%) In terms of maintenance the court will look at the length of the marriage and the ability to pay versus the need of the recipient. Mary quit her job as a school teacher and may need temporary maintenance to help her get back on her feet again and find work.</p> | |
|--|--|

Sample Essay Answer #2

In setting child support, the Court must determine what income to use for each party. Because Sue is currently unemployed, the Court will look to her historical rate of pay at the fast food restaurant and impute that hourly wage to full time or will impute minimum wage in the jurisdiction where she resides. The Court will consider her voluntarily unemployed. Greg’s income will be based on his recent earning history, as well as other statistical information that is available regarding commission sales. The trust will have no current effect because she is not yet receiving it.

The agreement made by Sue and Greg concerning residential time and child support is contrary to public policy and law and the judge might not sign it. The court must consider the best interests of the children in ordering residential time. Residential time is not dependent on child support. Even if the Court does not order a party to pay child support, residential time with both parents is likely to be ordered. Child support cannot be waived and must be ordered according to a statutory formula.

All debts are community obligations, for which they are jointly and severally liable. The LLLT should refer Sue for qualified advice regarding the debts to address credit counseling, bankruptcy or other options. Any debt incurred after separation is the party’s separate obligation. The LLLT should explain that the court ordered division of debt does not affect creditor’s rights. The hold harmless clause contained in the pattern form decree of dissolution should be explained to the client.

Grading Guidelines

Issues	Comments/Percentage
<p>1) What are the considerations for determining or imputing the income of each party to be used in setting child support?</p> <p>a. (20%) Because Sue is currently unemployed, the Court will look to her historical rate of pay at a fast food restaurant and impute that hourly wage to full time or will impute minimum wage in the jurisdiction where she resides. The Court will consider her voluntarily unemployed.</p> <p>b. (15%) Greg’s income will be based on his recent earning history, as well as other statistical information that is available regarding commission sales.</p> <p>c. (5%) The trust will have no current effect since she is not yet receiving it.</p>	<p>(40%) RCW 26.19 RCW 26.19.071(6) Imputation of Income The LLLT should recognize that the court will impute income for Sue and Greg. The Court will impute income in this priority:</p> <ul style="list-style-type: none"> i. full time earnings at the historical rate of pay if available. ii. earnings at past rate of pay (can be sporadic rather than full-time) iii. full time earnings at minimum wage iv. median net income <p>If the LLLT says that Sue or Greg’s income should be “median net income”, they should not be given full points for that portion of the question.</p>
<p>2) How would you advise Sue as to the court’s likely ruling regarding the proposed residential time and child support agreement and why?</p> <p>a. (10%) Their agreement is contrary to public policy and law and the judge might not sign it. The court must</p>	<p>(20%)</p> <ul style="list-style-type: none"> a. No statute prohibits waiver, but case law does. See Hartman v. Smith, 100 Wn.2d 766, Goodell v. Goodell, 130 Wn.App. 381, 190-

<p>consider the best interests of the children in ordering residential time. Residential time is not dependent on child support.</p> <p>b. (10%) Child support cannot be waived and must be ordered according to a statutory formula.</p>	<p>91 (2005) and In re Marriage of Pippins, 46 Wn.App.805, 808 (1987).</p>
<p>3) How would you advise Sue regarding the characterization and division of debts and assets in the dissolution? Discuss the effects of a hold harmless clause on the parties and on the rights of others.</p> <p>a. (20%) All debts are community obligations, for which they are jointly and severally liable.</p> <p>b. (5%) LLLT should refer Sue for qualified advice regarding the debts to address credit counseling, bankruptcy, or other options.</p> <p>c. (15%) The LLLT should explain that the court ordered division of debt does not affect creditor’s rights and under the hold harmless clause one party may have a claim against the other for nonpayment of court ordered debts. The hold harmless clause contained in the pattern form decree of dissolution should be explained to the client.</p>	<p>(40%) RCW 26.16.030 c. “Hold Harmless Clause” is a provision in an agreement whereby a party agrees to indemnify another party from liability; typically applicable to family law on a reciprocal basis. In the pattern decree of dissolution, spouses have to indemnify each other from third party debt collectors.</p>

Real Property Division Form

Owner #1

Name: _____

Address: _____

Phone: _____

Email: _____

Owner #2

Name: _____

Address: _____

Phone: _____

Email: _____

1. VALUE AND DESCRIPTION OF REAL ESTATE

Figure 1 – Value of Real Estate \$ _____ As of _____
(value) (date)

Value based on (check one):

Written agreement attached to this form

Comparative Market Analysis

Comparative Market Analysis is a non-binding value.

Appraisal

An appraisal within the last six months is recommended.

Address of Real Property: _____
Street address

City, State, Zip Code

Tax Parcel Information: _____

Abbreviated Legal Description: _____

Required Documents for Attachment 1

- 1. Document(s) which include address of real property, tax parcel information, and full legal description
- 2. County Tax Valuation

(Value)

(Date of Most Recent Valuation)

County Tax Valuation is not conclusive for value of real property.

2. ENCUMBRANCES

Figure 2 – Total of all monetary encumbrances \$ _____ **As of** _____
(value) (date)

Encumbrances includes total of all loans, liens, or other encumbrances.

First Secured Party (e.g. noteholder, lender)

Name(s): _____

Mailing Address: _____

(Mailing Address)

(City, State, Zip Code)

Physical Address: _____

(Physical Address)

(City, State, Zip Code)

Phone: _____

Fax: _____

Email: _____

Principal Balance \$ _____ As of _____
(amount) (date)

Monthly payment: \$ _____

Annual Taxes: \$ _____

Only include annual taxes if it is not included in the mortgage payment.

Annual Insurance: \$ _____

Only include annual insurance if it is not included in the mortgage payment.

Next Payment Due Date: _____

Other terms (e.g. balloon payment): **ATTACH NOTE**

Are there other secured parties, liens, or encumbrances?
If yes, list and attach documents using attachment 2. _____

Required for Attachment 2

1. Separate documents for each encumbrance and include: (1) name and contact information for any lender or lien holder(s), (2) amount owing, (3) reason for lien, and (4) whether it is a community or separate debt.

Additional Lien Holder(s):

A. 1) Name: _____

Address: _____

Phone: _____

Email address: _____

2) Amount owing: _____

3) Reason for lien: _____

4) Community debt or separate debt: _____

B. 1) Name: _____

Address: _____

Phone: _____

Email address: _____

2) Amount owing: _____

3) Reason for lien: _____

4) Community debt or separate debt: _____

1) Other encumbrance (e.g. lis pendens)? _____

Required Documents for Attachment 2-A

1. Any written agreement, copies of judgments, liens, or other cloud on title; title report if available

3. EQUITY

Figure 3 – Current Equity \$ _____ (value)
Current equity determined by subtracting Figure 2 from Figure 1.

Adjustment to Current Equity,
if any: \$ _____

Deferred maintenance (items likely to appear on a house inspection):

Damage to property: _____

If there is damage to property, will this damage be covered by insurance? _____

Other _____

Required Documents for Attachment 3

1. Document(s) which include a description of any other reason for adjustments including contract bids, if any.

4. PROPERTY DISPOSITION/DIVISION

4a. **Sold**

How equity is to be divided: Owner #1: _____ \$/% Owner #2: _____ \$/%

Complete if the home is to be sold:

Who will occupy the property while on the market:

Who is responsible for arranging showings?

Who determines the listing price?

What is the process for the parties' acceptance of an offer?

What happens if the parties do not agree on the acceptance of an offer?

Is there an upset price or percentage of listing (redact if this form is filed with the court)?

What is the process for counteroffers, repairs based on inspection, or buyer's lenders' requirements? _____

4b. Retained by one party

How equity is to be divided: Owner #1: _____ \$/% Owner #2: _____ \$/%
(Check one below)

- Transfer of title.
- Payable upon sale.
- Payment to be deferred. If so, how will the obligation be secured?
(e.g. Equity Lien pursuant to Decree or Judgment, Deed of Trust, Other?)

If payment of equity is to be deferred, the amount and terms of repayment must be reduced to writing in the form of a Promissory Note secured by a Deed of Trust against the property.

**Terms of Payments
(between parties):**

- Period of Amortization _____
(number of months/years)
- Interest rate _____ % Default interest rate _____ %
(12% if not listed above)
- Periodic payment amount \$ _____ beginning _____
(monthly/annual) (Date)
- Other terms: _____
- Due on sale clause
- Balloon payment, if any _____
(Date)

Until the property is transferred or sold, who will occupy the property?

Complete if the home is encumbered by a mortgage or other encumbrance(s):

Who will pay the mortgage or encumbrance(s)? _____
Who is responsible for the maintenance of the property,
including payment of utilities? _____

Complete if the property is to be refinanced:

Who will obtain refinancing? _____

Refinance commenced by: _____

Refinance completed by: _____

No later than _____ from the date of entry of decree dissolution
(months/years)

When the youngest child turns 18 or graduates from high school, whichever is first, but no later than _____.
(date)

Other: _____

Complete if there will be an equity buy-out of one party's interest:

If party is to be bought out or receive a percentage of the sale price:

Will the other party:

remain a borrower on the mortgage, if any, or,

be released from liability?

Total amount of buy-out is:

fixed amount of \$_____ which was determined by: _____

_____ \$/% of sale

_____ \$/% of Fair Market Value (FMV) determined by: _____

5. REMEDIES IN THE EVENT OF DEFAULT OR IMPOSSIBILITY

How will notice be given to the other party (include period in which to cure if default)?

What happens if the person refinancing the loan does not obtain financing within time allowed?

Sale

What is the process to determine term, price and occupancy during sale?

Creation or Modification of Note and Deed of Trust in favor of party with Equitable Lien which will obligate the Party unable to refinance to make monthly payments of \$_____ with interest to accrue at the rate of _____% per annum, until _____, at which time the entire amount shall be paid in full. Said Note and Deed of Trust shall include a due on sale clause, and default interest of _____% [12% if not filled in]. Interest to accrue from _____ (date).

What happens after notice if the person responsible in the Decree fails to make payments or defaults on non-monetary terms in the Deed of Trust?

Property will be sold [terms as below] and/or: _____

Other Party may cure default and the amount paid by said party shall be added to that Party's Equitable Lien.

Complete if the home is to be sold after default or impossibility:

Who will occupy the property while on the market:

Who is responsible for arranging showings?

Who determines the listing price?

Who determines the listing agent?

What is the process for the parties' acceptance of an offer?

What if the parties do not agree on the acceptance of an offer?

Is there an upset price or percentage of listing *(redact if this form is filed with the court)?*

What is the process for counteroffers, repairs based on inspection, or buyers' lender's requirements?

Other: _____

The Party entitled to remedies under this section shall be deemed to have waived his or her remedies, if not exercised within 180 days of date of default by the other Party, or upon foreclosure of a prior encumbrance, whichever occurs first.

Non-defaulting Party shall collect reasonable legal professional fees.

Limited License Legal Technician
WSBA #

6. AGREEMENT OF THE PARTIES

This document is a:

Proposed agreement presented by _____

and expires _____.

Settlement agreement of the parties.

Name: _____

Signature: _____

Represented by: _____

Signature: _____

Name: _____

Signature: _____

Represented by: _____

Signature: _____

Prepared by: _____ Date: _____

Owner # 1 Date

Owner #2 Date

Real Property Division Form

Owner #1

Name: _____

Address: _____

Phone: _____

Email: _____

Owner #2

Name: _____

Address: _____

Phone: _____

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First Secured Party (e.g. noteholder, lender)

Name(s): _____

Mailing Address: _____

(Mailing Address)

(City, State, Zip Code)

Physical Address: _____

(Physical Address)

(City, State, Zip Code)

Phone: _____

Fax: _____

Email: _____

Principal Balance \$ _____ As of _____
(amount) (date)

Monthly payment: \$ _____

Annual Taxes: \$ _____

Only include annual taxes if it is not included in the mortgage payment.

Annual Insurance: \$ _____

Only include annual insurance if it is not included in the mortgage payment.

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Are there other secured parties, liens, or encumbrances?
If yes, list and attach documents using attachment 2. _____

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1. Separate documents for each encumbrance and include: (1) name and contact information for any lender or lien holder(s), (2) amount owing, (3) reason for lien, and (4) whether it is a community or separate debt.

Additional Lien Holder(s):

A. 1) Name: _____

Address: _____

Phone: _____

Email address: _____

2) Amount owing: _____

3) Reason for lien: _____

4) Community debt or separate debt: _____

B. 1) Name: _____

Address: _____

Phone: _____

Email address: _____

2) Amount owing: _____

3) Reason for lien: _____

4) Community debt or separate debt: _____

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1. Any written agreement, copies of judgments, liens, or other cloud on title; title report if available

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Deferred maintenance (items likely to appear on a house inspection):

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If there is damage to property, will this damage be covered by insurance? _____

Other _____

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(Check one below)

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Interest rate _____ % Default interest rate _____ %
(12% if not listed above)

Periodic payment amount \$ _____ beginning _____
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Due on sale clause

Balloon payment, if any _____
(Date)

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Complete if the home is to be sold after default or impossibility:

Who will occupy the property while on the market:

Who is responsible for arranging showings?

Who determines the listing price?

Who determines the listing agent?

What is the process for the parties' acceptance of an offer?

What if the parties do not agree on the acceptance of an offer?

Is there an upset price or percentage of listing *(redact if this form is filed with the court)?*

What is the process for counteroffers, repairs based on inspection, or buyers' lender's requirements?

Other: _____

The Party entitled to remedies under this section shall be deemed to have waived his or her remedies, if not exercised within 180 days of date of default by the other Party, or upon foreclosure of a prior encumbrance, whichever occurs first.

Non-defaulting Party shall collect reasonable legal professional fees.

Limited License Legal Technician
WSBA #

6. AGREEMENT OF THE PARTIES

This document is a:

Proposed agreement presented by _____

and expires _____.

Settlement agreement of the parties.

Name: _____

Signature: _____

Represented by: _____

Signature: _____

Name: _____

Signature: _____

Represented by: _____

Signature: _____

Prepared by: _____ Date: _____

Owner # 1 Date

Owner #2 Date

Comparison of Limited License Types in Washington, Utah, and Oregon (to be determined)

	Washington	Utah	Oregon
Limited License Type	Limited License Legal Technician (LLLT)	Licensed Paralegal Practitioner (LPP)	
“Core” Educational Requirements	45 credits in legal studies, including: Civil Procedure (8) Contracts (3) Interviewing & Investigation Techniques (3) Intro to Law & Legal Process (3) Law Office Procedures & Technology (3) Legal Research, Writing, & Analysis (8) Professional Responsibility (3)	Law degree from ABA-approved law school; OR AA or Bachelor’s degree in paralegal studies from accredited school; OR Bachelor’s degree in any field from accredited school plus Paralegal Certificate from accredited program or 15 credit hours of paralegal studies from accredited school	
Practice Area or Other Educational Requirements	15 credits of Practice Area education: <ul style="list-style-type: none"> • 5 credit hours in basic domestic relations subjects • 10 credit hours in advanced and WA specific domestic relations subjects 	If no law degree, must take LPP-approved professional ethics courses and approved course of instruction for each practice area they seek to be licensed	
Certification	None required (unless seeking a waiver; see Waiver section for requirements)	Certification by NALA, NALS, or NFPA: <ul style="list-style-type: none"> • NALA: Certified Paralegal (CP) or Certified Legal Assistant (CLA) • NALS: Professional Paralegal (PP) • NFPA: CORE Registered Paralegal 	

Comparison of Limited License Types in Washington, Utah, and Oregon (to be determined)

	Washington	Utah	Oregon
		(CRP) <ul style="list-style-type: none"> Not required for applicants with a law degree 	
Waiver	<p>Pass the NFPA PACE Exam, NALA CP Exam, or NALS PP Exam and have active certification</p> <p>Complete 10 years of substantive law-related experience within 15 years preceding application</p> <p>Proof certified by supervising lawyer</p> <p>Waives core education and Associate's degree requirements</p>	<p>Be at least 21 years old</p> <p>Complete 7 years of full-time substantive law related experience within 10 years preceding application (including practice area experience)</p> <ul style="list-style-type: none"> 500 hours in specified family law/domestic relations issues 100 hours in forcible entry and detainer or debt collection Proof certified by supervising attorney <p>Waives minimum educational requirements</p>	
Experience	<p>3000 hours of substantive legal work experience</p> <ul style="list-style-type: none"> Supervised by licensed lawyer Within 3 years before or 40 months after passing practice area exam 	<p>1500 hours of substantive law-related experience within last 3 years, under supervision of licensed attorney or LPP</p> <ul style="list-style-type: none"> 500 hours in specified family law/domestic relations topics for Family Law licensure 100 hours experience in forcible entry and detainer or debt collection for other areas <p>Not required if applicant has a law degree</p>	
Examinations	<p>PCC Exam (NFPA)</p> <p>Practice Area exam</p> <p>Professional Responsibility exam</p>	<p>LPP Ethics Exam</p> <p>Practice area exam</p>	

Draft Legal Aid Survey

The Limited License Legal Technician (LLLT) Board wants to hear from you! In order to best understand how Limited License Legal Technicians (LLLTs) and legal aid organizations can work together to increase access to justice to low and moderate income individuals, please take a few minutes to share your thoughts with us.

1. Have you heard of LLLTs?
 - A. Yes
 - B. No

2. Would you consider hiring a LLLT?
 - A. Yes
 - B. No

3. If your organization does not offer family law legal services, would you consider hiring an LLLT who is licensed to practice in a different area of law?

If yes, which area of law?

If no, why not?

4. Would you consider referring a client that your organization is unable to serve to a LLLT?

If yes, please explain

If no, please explain

5. Is there any other information you would like to receive from us?

OBJECTIVE

1. It is the LLLT Board's goal to increase the accessibility and affordability of the practice area education by:
 - a. Authorizing, encouraging, and supporting community colleges that wish to offer it; and
 - b. Ensuring that the rigorousness and quality of the education is preserved.

RESOLUTION

In order to achieve the stated objective, the LLLT Board will develop and implement a two-part plan: a pilot program and a long-term policy.

1. Pilot program

The pilot program is intended to allow a qualified community college to teach the practice area classes in the near future. The pilot program will enable the LLLT Board to address the immediate need for an education institution to provide the practice area classes and use it as a model when developing processes and policies that could be adopted state-wide.

In order to ensure quality of education and oversight by the LLLT Board, the community college approved to teach the practice area classes as part of the pilot program will be required to submit quarterly reports, identifying any challenges in following the curricular requirements approved by the LLLT Board. Any, even minor modifications to the curriculum, must be approved by the LLLT Board in advance.

2. Long-term policy

The LLLT Board will develop criteria for defining qualified institutions that are eligible to offer the practice area classes. The LLLT Board will also develop guidelines that such qualified institutions will be required to follow when offering the classes.

APPLICABLE RULES

APR 3 (e)

Qualification for Limited License Legal Technician (LLL) examination. To qualify to sit for the LLLT examination, a person must;

(...)

(C) in each practice area in which an applicant seeks licensure, instruction in the approved practice area based on a curriculum developed by or in conjunction with an ABA approved law school, covering the key concepts or topics and the number of credit hours of instruction required for licensure in that practice area, as determined by the LLLT Board.

APR 28

REGULATION 3. EDUCATION REQUIREMENTS FOR LLLT APPLICANTS AND APPROVAL OF EDUCATIONAL PROGRAMS

B. Practice Area Curriculum. An applicant for licensure in a defined practice area shall have completed the prescribed curriculum and earned course credits for that defined practice area, as set forth below and in APR 3(e). Each practice area curriculum course shall satisfy the curricular requirements approved by the LLLT Board and published by the Bar.

1. Domestic Relations.

a. Prerequisites: Prior to enrolling in the domestic relations practice area courses, applicants shall complete the following core courses: Civil Procedure; Interviewing and Investigation Techniques; Introduction to Law and Legal Process; Legal Research, Writing, and Analysis; and Professional Responsibility.

b. Credit Requirements: Applicants shall complete 5 credit hours in basic domestic relations subjects and 10 credit hours in advanced and Washington specific domestic relations subjects.