



Legal employers should consider periodically measuring well-being on an anonymous basis to track progress on well-being goals. As the old saying goes, “what gets measured gets done.” Further, evaluating which strategies are effective and which are not will be impossible without ongoing assessment.

## DECIDING WHETHER TO ASSESS WELL-BEING

The Centers for Disease Control and Prevention (CDC) recommends that employers regularly [assess employee health](#) and provides an [Employee Health Assessment](#) and [Health and Safety Climate Survey](#) for doing so. (These surveys may need some revisions to be adapted to a legal employer context.) The CDC also has provided a [User Manual](#) for the Climate Survey, which includes guidance on how to distribute and use this type of survey effectively. As the CDC User Manual reflects, the feedback from well-being-related assessments can guide further investigation and interventions.

The medical profession has made much more progress than the legal profession on establishing programs to assess and advance well-being. For example, the [National Academy of Medicine](#) recommends using surveys to assess well-being and guide interventions. The Academy recognizes, however, the potential tension between maintaining confidentiality and a desire to help that arises when measuring sensitive areas, such as depression, suicide, and substance use disorders. In its view, especially given the unfortunate continued stigma about mental health, ensuring confidentiality is critical to participants and to collecting accurate results.

A possible way to address this tension that the Academy recommends is to take all participants to a new screen at the end of the survey that: (a) provides general information about mental health and substance use disorders, (b) encourages them to seek help if experiencing symptoms, and (c) gives information on resources for relevant services, including a suicide hot line.

## CHOOSING SPECIFIC ASSESSMENTS

As the well-being movement in the legal profession continues, we hope to validate and recommend a set of well-being-related surveys specifically tailored to lawyers and legal employers. At this point, though, following the medical profession’s lead, we offer multiple existing surveys from which legal employers can choose. Legal employers may wish to hire external consultants to help select specific surveys that are the best fit for the organization’s priorities and to handle and analyze the data appropriately. This is the recommended course especially for surveys and other communications related to sensitive topics like mental health and alcohol abuse and help-seeking behaviors or attitudes.

## POSSIBLE RISKS?

If legal employers have any concerns that collecting such information would create legal risks, they may wish to discuss these issues with their legal counsel or with Employee Assistance Programs and insurance carriers that have experience in this area.

## ORGANIZATION-LEVEL SURVEYS

Legal employers should consider organization-level assessments and not only individual-level assessments of health and well-being. Legal employers will want to pay closer attention to organizational and cultural factors that can contribute to poor well-being, burnout, and departures.

## 13 FACTORS FOR WORKPLACE WELL-BEING

As noted above, the Tristan Jepson Memorial Foundation has identified 13 factors as part of its [Best Practice Guidelines](#) for promoting psychological well-being in the legal profession, and the Guarding Minds@Work provides [a survey and supporting documents](#) to help employers assess and enhance these 13 factors.



## CDC HEALTHY CLIMATE SURVEY

As mentioned above, the CDC recommends the [Health and Safety Climate Survey](#) for assessing workplace well-being as well as a [User Manual](#).

## INDIVIDUAL-LEVEL SURVEYS

For individual lawyers, taking time to engage in self-assessment is imperative to overall wellness. Many lawyers have a hard time paying attention to their own needs. This is probably due to many factors, including the tendency to focus on the needs of clients and others and a high need for achievement that drives long working hours at a fast pace with too little rest and rejuvenation.

Lawyers who pay more attention to their own needs will be happier and healthier, will be able to provide higher quality professional services, and will be better colleagues and family members. Lawyers who take the time to assess their values, goals, and level of well-being are able to make choices with greater clarity and confidence. They can also make better decisions about how they want to practice and live their lives. Since many lawyers are high-achievers by nature, they often tend to push themselves to do more work than their own personal resources allow.

The following individual-level assessments are designed and intended for personal use and guidance purposes only. Their results should not be viewed as a diagnosis of having or not having a mental health disorder. Participants should be informed that such surveys are not intended to take the place of a professional evaluation and that questions and concerns should be referred to a mental health professional.

### DEPRESSION

The CDC recommends that employers assess employee [depression](#) and provides recommendations for [interventions](#) and [evaluating](#)

depression-related initiatives. As noted above, the CDC also has provided an assessment tool called the Employee Health Assessment, which includes a section on mental health. Three validated surveys that measure only depression are identified below:

- [The Patient Health Questionnaire-9 \(PHQ-9\)](#) is a common screening tool for depression and suicidal thoughts. An [Instruction Manual](#) also is available. It does not diagnose clinical depression but helps identify people who are experiencing elevated depressive symptoms and are at risk for developing a disorder.
- [The Depression Anxiety Stress Scales-21 \(DASS-21\)](#). This scale was used in the [2016 lawyer mental health study](#) referenced above.
- [The Center for Epidemiological Studies-Depression \(CES-D\) Scale](#). This also is a common screening tool for depression. To take it individually and immediately receive a feedback report, participants can be directed to the University of Pennsylvania's Authentic Happiness website where the CES-D Scale is available in the [Questionnaire Center](#).

### ANXIETY

- [The General Anxiety Disorder \(GAD\) Scale](#) is a common assessment used to screen for anxiety. It is available in the [Screening Tools](#) section of the website offered by SAMHSA-HRSA Center for Integrated Health Solutions (CIHS).

### ALCOHOL USE DISORDERS

- [The Alcohol Use Disorder Identification Test \(AUDIT\)](#) is a commonly used tool to screen for risk of alcohol use disorders. This was the scale used in the large-scale study of lawyers published in 2016 that is referenced above.

### BURNOUT

- [The Maslach Burnout Inventory \(MBI\)](#) is the most frequently-used burnout scale, but users



must pay a license fee. A few free validated alternatives are offered below:

- [Oldenburg Burnout Inventory](#). This is a validated burnout measure that's available for use and in the public domain. The scale appears at the end of the article you'll find in the hyper-link.
- [Non-Proprietary Single-Item Burnout Measure](#). Scholars in the medical profession have validated a single-item burnout measure (to replace the MBI), which is freely-available for use. The article that is hyper-linked contains the measure and describes it, and it also is set out below:

**Overall, based on your definition of burnout, how would you rate your level of burnout?**

- 1-I enjoy my work. I have no symptoms of burnout.
- 2-Occasionally I am under stress, and I don't always have as much energy as I once did, but I don't feel burned out.
- 3-I am definitely burning out and have one or more symptoms of burnout, such as physical and emotional exhaustion.
- 4-The symptoms of burnout that I'm experiencing won't go away. I think about frustration at work a lot.
- 5-I feel completely burned out and often wonder if I can go on. I am at the point where I may need some changes or may need to seek some sort of help.

**Scoring Instructions:** This item often is scored as  $\leq 2$  (no symptoms of burnout) vs.  $\geq 3$  (1 or more means there are burnout symptoms).

## WORK ENGAGEMENT

- [Gallup's Q12](#). This is a popular, copyrighted measure. You can view the items in a [Gallup report](#) discussing the measure. The "Q12" asks 12 questions covering concepts like: job satisfaction; clear work expectations; a purpose

or mission that imbues work with importance; adequate resources to perform the work; opportunities to use strengths and to learn, grow, and develop; supervisors who care, provide recognition, and discuss progress; co-workers who value quality; meaningful opportunities to give input; and a close friendship with someone.

- [Utrecht Work Engagement Scale \(UWES\)](#). The scale and manual both are available in the hyper-linked document. The UWES is the engagement scale used in most academic research. While Gallup's Q12 is focused more on the preconditions that contribute to high motivation, the UWES measures the energetic state that results from supportive conditions. The 9-item version of the UWES scales appears in the hyper-linked document and is set out below, to which participants respond on a scale from 0-Never to 6-Always.

- At my work, I feel bursting with energy.
- At my job, I feel strong and vigorous.
- I am enthusiastic about my job.
- My job inspires me.
- When I get up in the morning, I feel like going to work.
- I feel happy when I am working intensely.
- I am proud on the work that I do.
- I am immersed in my work.
- I get carried away when I'm working.

## OVERALL WELL-BEING

- [Workplace PERMA Profiler](#). In his popular book [Flourish](#), Dr. Martin Seligman--the founder of positive psychology--defined human flourishing as made up of six dimensions: Positive Emotions,



Engagement, Relationships, and Achievement (which form the acronym “PERMA”). The Workplace PERMA Profiler was created and validated to measure the PERMA factors in the workplace.

- **Subjective Well-Being (SWB)** is the most frequently-used measure of overall well-being or “happiness.” An SWB score typically is computed by creating a composite measure of (1) the Satisfaction with Life Scale (SWLS) and (2) a scale that measures the ratio of positive to negative emotions. The composite score is calculated like this: SWLS + (positive emotions - negative emotions). Higher [SWB is associated with many benefits](#)--including better psychological and physical health and occupational success. SWB was the measure of happiness used in a recent [lawyer well-being study](#) that measured factors contributing to the happiness of thousands of practicing lawyers.

The first component of SWB is the [Satisfaction with Life Scale \(SWLS\)](#). The second component of SWB is a measure of the ratio of positive to negative emotions, such as the [Scale of Positive and Negative Experience](#) (SPANE). Both scales are free to use so long as credit is given to the authors. [Because negative emotions are much stronger](#) than positive ones, it’s important to intentionally foster positive emotions to maintain a healthy “positivity ratio” of about 3:1 positive to negative emotions. A tendency toward positive emotions (called a [Positive Emotional Style](#)) is associated with psychological and physical health as well as occupational success and effective leadership.

- **The Wellness Assessment** is another overall well-being measure that asks for your perceived progress on your best life in terms of important relationships, community where you live, occupation, physical health and wellness, emotional and psychological well-being, and economic situation.

## RESILIENCE

There’s no standard definition or measure of resilience and many scales are available--some of which require payment of a licensing fee. You can find a discussion of various options on the [Positive Psychology Program website](#).

- **Brief Resilience Scale**. This is a 6-item measure of resilience.

## MEANINGFUL WORK

**Work and Meaning Inventory (WAMI)**. The WAMI is a common survey for measuring the experience of meaningful work. It is free to use for noncommercial research and educational purposes without permission. [Research shows that the experience of meaningfulness](#) is associated with physical and mental health and is the biggest driver of work engagement.

## OPTIMISM

Much evidence reflects that optimism is associated with physical and psychological health. There are two primary ways that optimism is measured:

- **Life Orientation Scale-Revised**. This scale measures trait or dispositional optimism. It measures your habits of thought when facing obstacles or considering the future.
- **Attributional Style Questionnaire (ASQ)** (aka Explanatory Style Questionnaire). This assessment measures explanatory style, which are your habits of thought when attributing the causes of good and bad events. It is the optimism measured used by research by positive psychology founder Dr. Martin Seligman and discussed in his popular book [Learned Optimism](#). It can be found in the [Questionnaire Center](#) of University of Pennsylvania’s Authentic Happiness website. There is [some evidence](#) that lawyers tend to have a pessimistic explanatory style, which is associated with depression.



## LEADERSHIP

- **Transformational Leadership.** Transformational leadership is by far the most-studied leadership theory in the academic leadership literature. A common measure of transformational leadership is the [Multifactor Leadership Questionnaire](#). It's copyrighted and users must pay a licensing fee.
- **Leader-Member Exchange (LMX).** LMX also is a popular leadership theory that focuses on the quality of relationships between leaders and followers. This measure is freely available for non-commercial research and educational purposes without seeking permission. It can be found in this [article about LMX](#) that also describes the scale.
- **Leader Development Plan Template.** Claremont Graduate University's LeadLabs website offers a free [leader development plan template](#). It's an automated template that walks you through an exercise to identify your leadership strengths and goals.
- Rated you lower than you deserved on an evaluation.
- Yelled, shouted, or swore at you.
- Made insulting or disrespectful remarks about you.
- Ignored you or failed to speak to you (e.g., gave you "the silent treatment").
- Accused you of incompetence.
- Targeted you with anger outbursts or "temper tantrums."
- Made jokes at your expense.

## INCIVILITY

[Workplace Incivility Scale.](#) This scale was developed by one of the leading experts in workplace civility, Dr. Lilia Cortina. The scale is contained in the research article available through the hyper-link and its 12 items are reprinted below:

During the PAST YEAR, were you ever in a situation in which any of your supervisors or co-workers:

- Paid little attention to your statements or showed little interest in your opinions.
- Doubted your judgment on a matter over which you had responsibility.
- Gave you hostile looks, stares, or sneers.
- Addressed you in unprofessional terms, either publicly or privately.
- Interrupted or "spoke over" you.