

**RULE 8.4:  
MISCONDUCT**

**A lawyer or law firm shall not:**

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;**
- (b) engage in illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer;**
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;**
- (d) engage in conduct that is prejudicial to the administration of justice;**
- (e) state or imply an ability:
  - (1) to influence improperly or upon irrelevant grounds any tribunal, legislative body or public official; or**
  - (2) to achieve results using means that violate these Rules or other law;****
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law;**
- (g) unlawfully discriminate in the practice of law, including in hiring, promoting or otherwise determining conditions of employment on the basis of age, race, creed, color, national origin, sex, disability, marital status or sexual orientation. Where there is a tribunal with jurisdiction to hear a complaint, if timely brought, other than a Departmental Disciplinary Committee, a complaint based on unlawful discrimination shall be brought before such tribunal in the first instance. A certified copy of a determination by such a tribunal, which has become final and enforceable and as to which the right to judicial or appellate review has been exhausted, finding that the lawyer has engaged in an unlawful discriminatory practice shall constitute prima facie evidence of professional misconduct in a disciplinary proceeding; or**
- (h) engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer.**

**Comment**

[1] Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another, as when they request or instruct an agent to do so on their behalf. Paragraph (a), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

[2] Many kinds of illegal conduct reflect adversely on fitness to practice law. Illegal conduct involving violence, dishonesty, fraud, breach of trust, or serious interference with the administration of justice is illustrative of conduct that reflects adversely on fitness to practice law. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

[3] The prohibition on conduct prejudicial to the administration of justice is generally invoked to punish conduct, whether or not it violates another ethics rule, that results in substantial harm to the justice system comparable to those caused by obstruction of justice, such as advising a client to testify falsely, paying a witness to be unavailable, altering documents, repeatedly disrupting a proceeding, or failing to cooperate in an attorney disciplinary investigation or proceeding. The assertion of the lawyer's constitutional rights consistent with Rule 8.1, Comment [2] does not constitute failure to cooperate. The conduct must be seriously inconsistent with a lawyer's responsibility as an officer of the court.

[4] A lawyer may refuse to comply with an obligation imposed by law if such refusal is based upon a reasonable good-faith belief that no valid obligation exists because, for example, the law is unconstitutional, conflicts with other legal or professional obligations, or is otherwise invalid. As set forth in Rule 3.4(c), a lawyer may not disregard a specific ruling or standing rule of a tribunal, but can take appropriate steps to test the validity of such a rule or ruling.

[4A] A lawyer harms the integrity of the law and the legal profession when the lawyer states or implies an ability to influence improperly any officer or agency of the executive, legislative or judicial branches of government.

[5] Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

[5A] Unlawful discrimination in the practice of law on the basis of age, race, creed, color, national origin, sex, disability, marital status, or sexual orientation is governed by paragraph (g).

**RULE 8.5:  
DISCIPLINARY AUTHORITY AND CHOICE OF LAW**

**(a) A lawyer admitted to practice in this state is subject to the disciplinary authority of this state, regardless of where the lawyer’s conduct occurs. A lawyer may be subject to the disciplinary authority of both this state and another jurisdiction where the lawyer is admitted for the same conduct.**

**(b) In any exercise of the disciplinary authority of this state, the rules of professional conduct to be applied shall be as follows:**

**(1) For conduct in connection with a proceeding in a court before which a lawyer has been admitted to practice (either generally or for purposes of that proceeding), the rules to be applied shall be the rules of the jurisdiction in which the court sits, unless the rules of the court provide otherwise; and**

**(2) For any other conduct:**

**(i) If the lawyer is licensed to practice only in this state, the rules to be applied shall be the rules of this state, and**

**(ii) If the lawyer is licensed to practice in this state and another jurisdiction, the rules to be applied shall be the rules of the admitting jurisdiction in which the lawyer principally practices; provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the lawyer is licensed to practice, the rules of that jurisdiction shall be applied to that conduct.**

**Comment**

**Disciplinary Authority**

[1] It is longstanding law that the conduct of a lawyer admitted to practice in this state is subject to the disciplinary authority of this state, regardless of where the conduct occurs.

**Choice of Law**

[2] A lawyer may be potentially subject to more than one set of rules of professional conduct, imposing different obligations. The lawyer may be licensed to practice in more than one jurisdiction with differing rules, or may be admitted to practice before a particular court with rules that differ from those of the jurisdiction or jurisdictions in which the lawyer is licensed to practice. Additionally, the lawyer’s conduct may involve significant contacts with more than one jurisdiction.

[3] Paragraph (b) seeks to resolve such potential conflicts. Its premise is that minimizing conflicts between rules, as well as uncertainty about which rules are applicable, is in the best interest of clients and the profession (as well as the bodies having authority to regulate