

## **ABA Model Rules:**

### *Client-Lawyer Relationship*

#### **ABA Model Rule 1.1 – 1.4**

- **ABA Model Rule 1.1 – Competence:** A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

- **ABA Model Rule 1.2 – Scope of Representation & Allocation of Authority Between Client & Lawyer:**

A lawyer shall abide by a client's decisions concerning the objectives of representation and shall consult with the client as to how they are to be pursued. A lawyer may take such action on the client's behalf as impliedly authorized to carry out the representation.

- **ABA Model Rule 1.3 – Diligence:**

A lawyer shall act with reasonable diligence and promptness in representing a client.

- **ABA Model Rule 1.2(d) – Criminal/Fraudulent Conduct:**

A lawyer shall not counsel a client to engage or assist a client in conduct that the lawyer knows is criminal or fraudulent. However, 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 law's validity, scope, meaning, or application.

- **ABA Model Rule 1.2, Comment 10 – Assisting Client in Crime/Fraud:**

A lawyer is prohibited from knowingly counseling or assisting a client in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may assist a client in determining the validity, scope, meaning, or application of the law as long as the lawyer does not counsel or assist in criminal or fraudulent conduct.

- **ABA Model Rule 1.4(b) – Communication:**

Under this rule, a lawyer is required to explain matters to the client to the extent reasonably necessary to allow the client to make informed decisions about the representation. This means that lawyers must provide enough information for clients to understand the legal situation they are facing, including the potential risks and outcomes, so they can meaningfully participate in their case and decide on a course of action.

This rule emphasizes the importance of clear, ongoing communication between a lawyer and their client to foster a strong attorney-client relationship and ensure effective representation.

- **ABA Model Rule 1.5 – Fees:**

A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors for determining reasonableness include time and labor required, skill needed, fee customarily charged in the locality, amount involved, results obtained, and the nature and length of the professional relationship.

- **ABA Model Rule 1.6 – Confidentiality of Information: (Attorney-Client privilege)**

A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized to carry out the representation, or the disclosure is permitted by paragraph (b).

- **ABA Model Rule 1.6(b)(1) Confidentiality of Information:**

This rule provides an exception to the general rule of confidentiality (Rule 1.6(a)). Specifically, it permits a lawyer to reveal information relating to the representation of a client if the lawyer reasonably believes that it is necessary \*\*to prevent reasonably certain death or substantial bodily harm.

In other words, even though lawyers are generally required to keep client information confidential, they may disclose such information without the client's consent if doing so could prevent a serious and imminent risk of harm to someone.

- **ABA Model Rule 1.7 – Conflict of Interest: Current Clients:**

A lawyer shall not represent a client if the representation involves a concurrent conflict of interest unless the lawyer reasonably believes they can provide competent and diligent representation and the client gives informed consent.

- **ABA Model Rule 1.8 – Conflict of Interest: Specific Rules:**

A lawyer shall not enter into a business transaction with a client unless the transaction is fair and reasonable to the client and the client is advised in writing to seek independent legal counsel.

- **ABA Model Rule 1.8(b) – Use of Client Information: (Ethical Duty)**

A lawyer shall not use information relating to the representation of a client to the disadvantage of the client unless the client gives informed consent.

- **ABA Model Rule 1.8(e) – Financial Assistance:**

A lawyer shall not provide financial assistance to a client in connection with pending

or contemplated litigation, except that a lawyer may advance court costs and expenses of litigation.

- **ABA Model Rule 1.8(h) – Limiting Liability:**

A lawyer shall not make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless the client is independently represented.

- **ABA Model Rule 1.8(j) – Sexual Relations with Clients:**

A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.

- **ABA Model Rule 1.9 – Duties to Former Clients:**

A lawyer shall not represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the former client's interests unless the former client gives informed consent.

- **ABA Model Rule 1.10 – Imputation of Conflicts of Interest:**

While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9, unless the prohibition is based on a personal interest of the disqualified lawyer.

- **ABA Model Rule 1.13 – Organization as Client:**

A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

- **ABA Model Rule 1.14 – Client with Diminished Capacity:**

When a client's capacity to make adequately considered decisions in connection with a representation is diminished, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

- **ABA Model Rule 1.14(b) – Protective Action:**

When the lawyer reasonably believes that the client has diminished capacity and is at risk of substantial physical, financial, or other harm unless action is taken, the lawyer may take reasonably necessary protective action.

- **ABA Model Rule 1.15 – Safekeeping Property:**

A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property.

- **ABA Model Rule 1.16 – Terminating Representation:**

A lawyer must comply with applicable law when terminating representation and take steps to protect the client's interests, such as giving notice, allowing time for employment of other counsel, and returning papers and property.

- **ABA Model Rule 1.16(a) – Declining or Terminating Representation:**

A lawyer shall not represent a client or, where representation has commenced, shall withdraw if the representation will result in a violation of the rules of professional conduct or other law.

- **ABA Model Rule 1.18 – Duties to Prospective Clients:**

A lawyer who has learned information from a prospective client shall not use or reveal that information, except as Rule 1.9 would permit with respect to information of a former client.

- **ABA Model Rule 2.1 – Advisor:**

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In giving advice, a lawyer may refer not only to law but also to other considerations such as moral, economic, social, and political factors.

- **ABA Model Rule 3.1 – Meritorious Claims and Contentions:**

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous.

- **ABA Model Rule 3.2 – Expediting Litigation:**

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

- **ABA Model Rule 3.3 – Candor Toward the Tribunal:**

A lawyer shall not knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.

- **ABA Model Rule 3.3(a)(2): Candor Toward the Tribunal**

This rule mandates that a lawyer must not knowingly fail to disclose to the tribunal \*\*legal authority in the controlling jurisdiction that is directly adverse to the position of the client and not disclosed by opposing counsel.

In simpler terms, even if a legal authority (like a case or statute) harms the lawyer's client's position, the lawyer has a duty to inform the court if the opposing side has not done so, ensuring the court is fully aware of the relevant law. This is part of the

lawyer's obligation to act with candor toward the tribunal and uphold the integrity of the judicial process.

- **ABA Model Rule 3.3, Comment 10 & 11: Candor Toward the Tribunal;**

- **Comment [10]: Duration of Obligation**

The duty to correct false statements or provide adverse legal authority to the court under Rule 3.3 continues until the conclusion of the proceeding. This obligation does not end with the final submission of the evidence or arguments. If a lawyer discovers that a previously made statement or evidence presented to the court is false, the lawyer must take reasonable steps to correct the record, even if the proceeding is over in some respects but has not reached a final resolution.

- **Comment [11]: Ex Parte Proceedings**

In ex parte proceedings (where only one party is present), the lawyer has an even more significant obligation of candor because the tribunal relies solely on the representations made by the party appearing before it. In such situations, the lawyer must inform the tribunal of all material facts known to the lawyer, even if those facts are adverse to the client's position. This heightened duty ensures fairness and maintains the integrity of the legal process in ex parte matters.

These comments emphasize the ongoing responsibility lawyers have toward the court, even after proceedings have progressed, and underscore the special duty of honesty in ex parte cases.

- **ABA Model Rule 3.3(c): Candor Toward the Tribunal**

Rule 3.3(c) states that the duties outlined in Rule 3.3(a) and Rule 3.3(b) — which require lawyers to be truthful to the tribunal, correct false statements, and disclose legal authority and facts — apply even if compliance requires the lawyer to reveal information otherwise protected by Rule 1.6 (Confidentiality of Information).

This means that a lawyer's duty of candor toward the court overrides the duty of confidentiality in certain situations. If maintaining client confidentiality would result in the lawyer presenting false information or failing to correct a falsehood to the court, the lawyer is required to disclose the truth, even if that means revealing confidential client information.

- **ABA Model Rule 3.4 – Fairness to Opposing Party & Counsel:**

A lawyer shall not obstruct another party's access to evidence or alter, destroy, or

conceal a document or other material with potential evidentiary value, or falsify evidence.

- **ABA Model Rule 3.4(a) – Obstruction of Access to Evidence:**

A lawyer shall not unlawfully obstruct another party's access to evidence or unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act.

- **ABA Model Rule 3.5 – Impartiality & Decorum of the Tribunal:**

A lawyer shall not seek to influence a judge, juror, or other official by means prohibited by law, communicate ex parte with such a person during the proceeding unless authorized, or engage in conduct intended to disrupt a tribunal.

- **ABA Model Rule 3.6: Trial Publicity**

This rule restricts attorneys from making public statements that could prejudice the fairness of an adjudicative proceeding. Lawyers are prohibited from making extrajudicial statements they know or should know will be publicly disseminated and could materially prejudice a legal proceeding.

- **ABA Model Rule 3.7 – Lawyer as Witness:**

A lawyer shall not act as an advocate at a trial in which the lawyer is likely to be a necessary witness unless the testimony relates to an uncontested issue, the nature and value of legal services, or disqualification would work substantial hardship on the client.

- **ABA Model Rule 3.8: Special Responsibilities of a Prosecutor**

Prosecutors have special duties, such as ensuring the defendant's right to counsel, refraining from prosecuting charges that they know are not supported by probable cause, and disclosing exculpatory evidence. They must also exercise care in making public statements to avoid prejudicing the defendant's right to a fair trial.

- **ABA Model Rule 3.9: Advocate in Nonadjudicative Proceedings**

When representing a client in legislative or administrative hearings, lawyers must disclose that they are appearing in a representative capacity and must conform to the same standards of truthfulness and candor as in adjudicative proceedings.

- **ABA Model Rule 4.1 – Truthfulness in Statements to Others:**

In the course of representing a client, a lawyer shall not knowingly make a false statement of material fact or law to a third person.

- **ABA Model Rule 4.2 – Communication with Person Represented by Counsel:**  
 A lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or court order.
- **ABA Model Rule 4.3 – Dealing with Unrepresented Persons:**  
 A lawyer shall not state or imply that they are disinterested when dealing with an unrepresented person and must make reasonable efforts to correct any misunderstandings about the lawyer's role in the matter.
- **ABA Model Rule 4.4 – Respect for Rights of Third Persons:**  
 A lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.
- **ABA Model Rule 4.4(b) – Inadvertently Sent Documents:**  
 A lawyer who receives a document relating to the representation of the lawyer's client and knows or reasonably should know that the document was inadvertently sent shall promptly notify the sender.
- **ABA Model Rule 5.3 – Responsibilities Regarding Nonlawyer Assistants:**  
 A lawyer with managerial authority shall make reasonable efforts to ensure that nonlawyer assistants' conduct is compatible with the lawyer's professional obligations.
- **ABA Model Rule 5.4 – Professional Independence of a Lawyer:**  
 A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law, and a lawyer shall not permit a person who recommends, employs, or pays the lawyer to direct or regulate the lawyer's professional judgment.
- **ABA Model Rule 5.4(c)– Third Party Influence:**  
 A lawyer shall not permit a person who pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.
- **ABA Model Rule 5.5 – Unauthorized Practice of Law:**  
 A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

- **ABA Model Rule 6.1 – Voluntary Pro Bono Publico Service:**  
 Every lawyer has a professional responsibility to provide legal services to those unable to pay and should aspire to render at least 50 hours of pro bono services per year.
- **ABA Model Rule 6.2 – Accepting Appointments:**  
 A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as representing the client would likely result in a violation of the Rules of Professional Conduct or other law.
- **ABA Model Rule 7.1 – Communications Concerning a Lawyer’s Services:**  
 A lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services.
- **ABA Model Rule 7.2 – Advertising:**  
 A lawyer may advertise services through written, recorded, or electronic communication, including public media, as long as it complies with the rules regarding communications concerning a lawyer’s services.
- **ABA Model Rule 7.3 – Solicitation of Clients:**  
 A lawyer shall not solicit professional employment from a prospective client by live person-to-person contact unless the contact is with a lawyer, family member, or someone with a prior professional relationship with the lawyer.
- **ABA Model Rule 7.6 – Political Contributions to Obtain Legal Engagements or Appointments:**  
 A lawyer or law firm shall not accept a government legal engagement or an appointment by a judge if the lawyer or law firm makes a political contribution or solicits political contributions for the purpose of obtaining or being considered for that type of engagement or appointment. This rule aims to prevent conflicts of interest and the appearance of impropriety.
- **ABA Model Rule 8.1 – Bar Admission & Disciplinary Matters:**  
 An applicant for admission to the bar, or a lawyer in connection with a disciplinary matter, shall not knowingly make a false statement of material fact or fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen.
- **ABA Model Rule 8.2: Judicial and Legal Officials**  
 Lawyers must not make statements about the qualifications or integrity of judges or legal officials that they know to be false or made with reckless disregard for the truth. This rule seeks to preserve public confidence in the judiciary.



- **ABA Model Rule 8.3(a) – Reporting Professional Misconduct:**

A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness shall inform the appropriate professional authority.

- **ABA Model Rule 8.4 – Misconduct:**

It is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, commit a criminal act that reflects adversely on the lawyer's honesty, or engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

- **ABA Model Rule 8.4(a) – Violations of Rules:**

It is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct.

- **ABA Model Rule 8.4(c) – Dishonesty, Fraud, Deceit, or Misrepresentation:**

A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

- **ABA Model Rule 8.4(e) – Improper Influence:**

A lawyer shall not state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

- **ABA Model Rule 8.5: Disciplinary Authority; Choice of Law**

A lawyer is subject to the disciplinary authority of the jurisdiction in which they are admitted to practice, regardless of where the conduct occurs. Additionally, if a lawyer's conduct involves matters in multiple jurisdictions, the rules of the jurisdiction with the most significant effect on the matter apply.

**ABA Model Code of Judicial Conduct:**

- **Canon 1 – Upholding the Integrity of the Judiciary:**

A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

- **Canon 2 – Performing the Duties of Judicial Office Impartially, Competently, and Diligently:**

A judge shall perform the duties of judicial office, including administrative duties, impartially, competently, and diligently.

- **Canon 3 – Minimizing External Influences on Judicial Conduct:**

A judge shall avoid external influences on judicial conduct and avoid involvement in extrajudicial activities that would compromise the independence of the judiciary.

- **Canon 4 – Judges Political and Campaign Activities:**

A Judge Or Candidate For Judicial Office Shall Not Engage In Political Or Campaign Activity That Is Inconsistent With The Independence, Integrity, Or Impartiality Of The Judiciary.

- **ABA Model Code of Judicial Conduct Rule 1.2 – Promoting Confidence in the Judiciary:**

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.

- **ABA Model Code of Judicial Conduct Rule 2.2 – Impartiality and Fairness:**

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

- **ABA Model Code of Judicial Conduct Rule 2.3 – Bias, Prejudice, and Harassment:**

A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

- **ABA Model Code of Judicial Conduct Rule 2.6 – Ensuring the Right to Be Heard:**

A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

- **ABA Model Code of Judicial Conduct Rule 2.9: Ex Parte Communications:**

Judges must not engage in ex parte communications (communications with one party without the other parties present), except in very limited circumstances, such as scheduling or administrative matters, and only if those communications do not affect the case's outcome.

- **ABA Model Code of Judicial Conduct Rule 2.11(A)(1) – Disqualification:**

A judge shall disqualify themselves in any proceeding in which the judge's impartiality might reasonably be questioned, including cases where the judge has a personal bias or prejudice.

- **ABA Model Code of Judicial Conduct Rule 2.12 – Supervisory Duties:**

A judge shall require court staff, court officials, and others subject to the judge

- **ABA Model Code of Judicial Conduct Rule 3.1: Extrajudicial Activities in General**

Judges may engage in extrajudicial activities that do not undermine their impartiality, demean the judicial office, or interfere with their judicial duties. However, these activities must not lead to frequent disqualification or violate the judge's ethical obligations.

- **ABA Model Code of Judicial Conduct Rule 3.6: Affiliation with Discriminatory Organizations**

Judges are prohibited from holding membership in any organization that practices invidious discrimination. This rule is meant to ensure that judges are not associated with groups that discriminate on the basis of race, gender, religion, or other protected categories.

- **ABA Model Code of Judicial Conduct Rule 3.13: Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value**

Judges may not accept gifts, loans, or other benefits if doing so would undermine their independence, impartiality, or integrity. There are specific guidelines for the types of permissible gifts and the need to report certain accepted items, in order to prevent conflicts of interest or bias.

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