

Standards of Professional Conduct and Etiquette

Rules under Section 49 (1) (c) of the Act

Section I - Duty to the Court

An advocate shall

1. acting before a court, conduct himself with dignity and self-respect.
2. shall maintain towards the courts a respectful attitude, bearing in mind that the dignity of the judicial office is essential for the survival of a free community
3. shall not influence the decision of a court by any illegal or improper means. Private communications with a judge relating to a pending case are forbidden
4. shall use his best efforts to restrain and prevent his client from resorting to unfair practices
5. shall appear in court at all times only in the prescribed dress, and his appearance shall always be presentable.
6. shall not enter appearance, act, plead or practise in any way before a court where related to the advocate as father, grandfather, son, grand-son, uncle, brother, nephew, first cousin, husband, wife, mother, daughter, sister, aunt, niece, father-in-law, mother-in-law, son-in-law, brother-in-law daughter-in-law or sister-in-law
7. shall not wear bands or gown in public places other than in courts except on such ceremonial occasions and at such places as the Bar Council of India
8. shall not appear against an organisation or an institution, society or corporation, if he is a member of the Executive Committee of such organisation or institution or society or corporation
9. should not act or plead in any matter in which he is himself pecuniarily interested.
10. shall not certify the soundness of his client for purpose of legal proceedings.

Example: He should not act in a bankruptcy petition when he himself is also a creditor of the bankrupt.

Section II Duty to the Client

1. shall not ordinarily withdraw from engagements, once accepted, without sufficient cause
2. Upon his withdrawal from a case, he shall refund such part of the fee as has not been earned.
3. bearing in mind that his loyalty ---> duty of an advocate fearlessly to uphold the interests of his client by all fair and honourable means without regard to any unpleasant consequences to himself
4. . An advocate appearing for the prosecution of a criminal trial shall so conduct the prosecution that it does not lead to conviction of the innocent
5. directly or indirectly, commit a breach of the obligations imposed by Section 126 of the Indian Evidence Act
6. An advocate shall not act on the instructions of any person other than his client or his authorized agent.
7. shall not agree to receive any share or interest in any actionable claim
8. An advocate shall not, directly or indirectly purchase any property sold in the execution of a order in any suit, in which he was in any way professionally engaged
9. shall not adjust fee payable to him by his client against his own personal liability to the client,
10. shall not takes advantage of the confidence reposed in him by his client.
11. An advocate should keep accounts of the client's money entrusted to him and the accounts should show the amounts received from the client or on his behalf, the expenses incurred for him and the debits made on account of fees with respective dates and all other necessary particulars.
12. receipt must be intimated to the client,

13. A copy of the client's account shall be furnished to him on demand provided the necessary copying charge is paid

Section III - Duty to Opponent

1. shall not in any way communicate or negotiate upon the subject matter of controversy
2. Shall do his best to carry out all legitimate promises made to the opposite party

Section IV - Duty to Colleagues

1. shall not advertise or inspiring newspaper comments or producing his photographs to be published in connection with cases in which he has been engaged or concerned
2. His sign-board or name-plate should be of a reasonable size
3. The sign-board or name-plate or stationery should not indicate that he is or has been President or Member of a Bar Council or of any Association
4. Judge or an Advocate General.
5. shall not permit his professional services for unauthorised practice of law
6. shall not enter appearance in any case in which there is already a vakalat or memo of appearance filed by an advocate engaged for a party except with his consent;

ADVOCATES WELFARE FUND

Section IV-A

1. Every Advocate borne on the rolls of the State Bar Council shall pay to the State Bar Council a sum of Rs. 300/- every third year
2. Rs. 1,000/- . This will be a life time payment
3. State Bar Council. Out of life time payment, 80% of the amount will be retained by the State Bar Council in a fixed deposit and remaining 20% has to be transferred to the Bar Council of India
4. utilized for the Welfare of the Advocates”
5. BAR COUNCIL OF INDIA ADVOCATES WELFARE FUND.” This fund shall be managed by the Welfare Committee of the Bar Council of India
6. utilised for the welfare of advocates in respect of Welfare Schemes sponsored by the respective State Bar Councils
7. **In case of transfer** of an advocate from one State Bar Council to other State Bar Council, 80% of the total sum collected so far in respect of that advocate by the Bar Council of India Advocates Welfare Committee for the State

get transferred to the Advocates Welfare Fund Committeed of the Bar Council of India for the State to which the said Advocate has got himself transferred* .

8. **fails to pay** the Secretary of the State Bar Council shall issue to him a notice to show cause within a month why his right to practice be not suspended. In case the advocate pays the amount together with late fee of Rs. 5/- per month, or a part of a month subject to a maximum of Rs. 30/- within the period specified in notice, the proceedings shall be dropped.

ADVOCATES WELFARE COMMITEE

(1) There shall be a Bar Council of India Advocates Welfare Committee, consisting of five members elected from amongst the members of the Council. The term of the members of the committee shall be co-extensive with their term in Bar Council of India.*

(2) (i) Every State Council shall have an Advocates Welfare Committee known as Bar Council of India Advocates Welfare Committee for the State. \

(ii) The Committee shall consist of member Bar Council of India from the State concerned who shall be the ExOfficio Chairman of the Committee and two members elected from amongst the members.

- (iii) The Secretary of the State Bar Council concerned will act as Ex-Officio Secretary of the Committee.
 - (iv) The term of the member, Bar Council of India in the Committee shall be co-extensive with his term in the Bar Council of India.
 - (v) The term of the members elected from the State Bar Council shall be two years.
 - (vi) Two members of the Committee will form a quorum of any meeting of the Committee.
- (3) Every State Bar Council shall open an account in the name of the Bar Council of India Welfare Committee for the State, in any nationalised Bank,
- (4) No amount shall be withdrawn from the Bank unless that cheque is signed by the Chairman of the Welfare Committee and its Secretary.
- (5) The State Bar Council shall implement Welfare Schemes approved by the Bar Council of India through Advocates Welfare Committee as constituted under sub-clause (2) (i). The State Bar Councils may suggest suitable modifications in the Welfare Schemes
- (6) The State Bar Council shall maintain separate account in respect of the Advocate Welfare Fund which shall be audited annually along with other accounts of the State Bar Council and send the same along with Auditors Report to the Bar Council of India.

SCHEME FOR FINANCIAL ASSISTANCE TO STATE BAR COUNCILS AND INDIVIDUALS UNDER RULE 44B OF THE BAR COUNCIL OF INDIA RULES*

1. Scheme for Financial Assistance to the State Bar Councils under Rule 44B of the Bar Council of India
2. applicable to only such State Bar Councils which have remitted the sum in accordance with the Rule 41 (2) of the Bar Council of India
3. That on receiving information from the Chairman of the State Bar Council or Member, Bar Council of India from that State, the Chairman, Bar Council of India on being satisfied by such report may immediately sanction a reasonable amount not exceeding Rs. 20,000/-** in an individual case and Rs. 50,000/-** in case of some calamity involving more than one advocate and shall report to the Advocates Welfare Committee of the Bar Council of India
 - (a) The advocate or advocates have suffered seriously on account of some natural calamity or ;
 - (b) the advocate or advocates have died an unnatural death, due to an accident or natural calamity or any other cause of like nature, or;
 - (c) the advocate or advocates have suffered or is suffering from such serious disease or illness which is likely to cause death if no proper treatment is given and the advocate requires financial assistance without which he would not be able to get proper treatment and has no personal assets except a residential house to meet such expenditures, or;
 - (d) the advocate or advocates become physically disabled or incapacitated to continue his profession on account of natural calamity or accident or any other cause of like nature.

Section V-Duty in imparting training

It is improper for an advocate to demand or accept fees or any premium from any person as a consideration for imparting training

Section VI-Duty to Render Legal Aid

1. any one genuinely in need of a lawyer is entitled to legal assistance even though he cannot pay for it fully or adequately

Section VII-Restriction on other Employments

1. . An advocate shall not personally engage in any business; but he may be a sleeping partner in a firm doing business provided that in the opinion of the appropriate State Bar Council, the nature of the business is not inconsistent with the dignity of the profession.
2. An advocate may be Director or Chairman of the Board of Directors of a Company with or without any ordinarily sitting fee, provided none of his duties are of an executive character. An advocate shall not be a Managing Director or a Secretary of any Company.
3. An advocate shall not be a full-time salaried employee of any person, government, firm, corporation or concern, so long as he continues to practise, and shall, on taking up any such employment,
4. An advocate who has inherited, or succeeded by survivorship to a family business may continue it, but may not personally participate in the management, He may continue to hold a share
5. An advocate may review Parliamentary Bills for a remuneration, edit legal text books at a salary, do press-vetting for newspapers,

CONDITION For Right to practice

1. Every advocate shall be under an obligation to see that his name appears on the roll of the State Council within whose jurisdiction he ordinarily practices
PROVIDED that if an advocate does not apply for transfer of his name to Other
2. shall not enter into a partnership for sharing remuneration with any person or legal practitioner who is not an advocate
3. every change of his address should be informed to Bar Council on roll
4. 1. An advocate who voluntarily suspends his practice for any reason whatsoever, shall intimate by registered post to the State Bar Council on the rolls of which his name is entered, of such suspensions together with his certificate of enrolment in original.
2. Whenever advocate who has suspended his practice desires to resume his practice, he shall apply to the Secretary of the State Bar Council for resumption of practice
3. The Enrolment Committee of the State Bar Council may order the resumption of his practice and return the certificate to him with necessary endorsement.
5. An advocate whose name has been removed by order of the Supreme Court or a High Court or the Bar Council
1.) An advocate who is under suspension, shall be under same disability during the period of such suspension as an advocate whose name has been removed from the roll.
6. No advocate shall be entitled to practice if in the opinion of the Council he is suffering from such contagious disease as makes the practice of law a hazard to the health of others.

BAR COUNCIL EXAMINATION

1. All India Bar Examination, the passing of which would entitle the advocate to a Certificate of Practice which would permit him/her to practice under Chapter IV of the Advocates Act, 1961
2. No advocate enrolled under section 24 of the Advocates Act, 1961 shall be entitled to practice
3. Bar Examination shall be mandatory for all law students graduating
4. conducted by the Bar Council of India.
5. held at least twice each year in such month and such places that the Bar Council of India may determine from time to time
6. shall test advocates in such substantive and procedural law
7. procedural law areas and syllabi shall be published by the Bar Council of India at least three months prior to the scheduled date of examination.
8. percentage of marks required to pass the Bar Examination shall be determined by the Bar Council of India.

9. The Bar Council of India, through a committee of experts, shall determine the syllabi, recommended readings, appointment of paper setters, moderators, evaluators, model answers, examination hall rules and other related matters.
10. The Bar Council of India shall determine the manner and format of application for the examination.
11. Upon successfully passing the Bar Examination, the advocate shall be entitled to a Certificate of Practice. Application for Certificate of Practice
12. The Certificate of Practice shall be issued by the Bar Council of India to the address of the successful advocate within 30 days of the date of declaration of results.
13. The Certificate of Practice shall be issued by the Bar Council of India under the signature of the Chairman, Bar Council of India
14. An unsuccessful advocate may appear again for the Bar Examination, without any limit on the number of appearances

FORM OF DRESSES OR ROBES TO BE WORN BY ADVOCATES*

1. ADVOCATES (a) A black buttoned up coat, chapkan, achkan, black sherwani and white bands with Advocates' Gowns.

(b) A black open breast coat. white shirt, white collar, stiff or soft, and white bands with Advocates' Gowns. In either case wear long trousers (white, black striped or grey) Dhoti excluding jeans. Provided further that in courts other than the Supreme Court, High Courts, District Courts, Sessions Courts or City Civil Courts, a black tie may be worn instead of bands.

II. LADY ADVOCATES (a) Black full sleeve jacket or blouse, white collar stiff or soft, with white bands and Advocates' Gowns. White blouse, with or without collar, with white bands and with a black open breast coat. Or

(b) Sarees or long skirts (white or black or any mellow or subdued colour without any print or design) or flare (white, black or black stripped or grey) or Punjabi dress Churidar Kurta or Salwar-Kurta with or without dupatta (white or black) or traditional dress with black coat and bands.

III. Wearing of Advocates' gown shall be optional except when appearing in the Supreme Court or in High Courts. IV. Except in Supreme Court and High Courts during summer

RIGHT OF PRACTISING ADVOCATES TO TAKE UP LAW TEACHING SECTION 49-A OF THE ADVOCATES ACT, 1961

1. teaching of law do not exceed three hours in a day
2. to be a part-time employment irrespective of the manner in which such employment