

1 Rule 11-551. Circumstances warranting diversion.

2 (ae) ~~Less serious~~**Prohibited** misconduct. Conduct ~~which may only be considered less~~  
3 ~~serious misconduct warranting diversion if it does not~~~~would~~ result in a suspension or  
4 ~~disbarment~~~~delicensure~~ ~~is not considered to be less serious misconduct~~. Conduct is not  
5 ordinarily considered less serious misconduct if any of the following considerations  
6 apply:

7 (1) the misconduct involves the misappropriation of client funds;

8 (2) the misconduct results in or is likely to result in substantial prejudice to a  
9 client or other person, absent adequate provisions for restitution;

10 (3) the ~~¶~~Respondent has been sanctioned in the last three years;

11 (4) the misconduct is of the same nature as misconduct for which the  
12 ~~¶~~Respondent has been sanctioned in the last three years;

13 (5) the misconduct involves dishonesty, deceit, fraud, or misrepresentation;

14 (6) the misconduct constitutes a substantial threat of irreparable harm to the  
15 public; a felony; or a misdemeanor which reflects adversely on the ~~¶~~Respondent's  
16 honesty, trustworthiness or fitness as a Lawyer; or

17 (7) the misconduct is part of a pattern of similar misconduct.

18 (bd) **Factors for consideration.** The ~~Diversion Committee~~OPC considers ~~the~~  
19 ~~following~~these factors in negotiating and executing the diversion contract:

20 (1) whether in the OPC's opinion, the presumptive sanction that would be  
21 imposed, ~~in the opinion of OPC or the Diversion Committee~~ is likely to be no  
22 more severe than a public reprimand or private admonition;

23 (2) whether participationing in diversion is likely to improve the ~~¶~~Respondent's  
24 future professional conduct and accomplish the goals of Lawyer discipline;

25 (3) whether aggravating or mitigating factors exist; and

26 (4) whether diversion was already tried.

27 [Effective December 15, 2020](#)