

1 **Rule 8.4. Misconduct.**

2 It is professional misconduct for a lawyer to:

3 (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another
4 to do so, or do so through the acts of another;

5 (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as
6 a lawyer in other respects;

7 (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

8 (d) engage in conduct that is prejudicial to the administration of justice;

9 (e) state or imply an ability to influence improperly a government agency or official or to achieve
10 results by means that violate the Rules of Professional Conduct or other law; or

11 (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial
12 conduct or other law.

13 (g) engage in conduct that the lawyer knows or reasonably should know is harassment or
14 discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual
15 orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of
16 law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a
17 representation in accordance with Rule 1.16. This paragraph does not preclude legitimate advice or
18 advocacy consistent with these Rules.

19 Comment

20 [1] Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional
21 Conduct or knowingly assist or induce another to do so through the acts of another, as when they request
22 or instruct an agent to do so on the lawyer's behalf. Paragraph (a), however, does not prohibit a lawyer
23 from advising a client concerning action the client is legally entitled to take.

24 [1a] A violation of paragraph (a) based solely on the lawyer's violation of another Rule of Professional
25 Conduct shall not be charged as a separate violation. However, this rule defines professional misconduct
26 as a violation of the Rules of Professional Conduct as the term professional misconduct is used in the
27 Supreme Court Rules of Professional Practice, including the Standards for Imposing Lawyer Sanctions. In
28 this respect, if a lawyer violates any of the Rules of Professional Conduct, the appropriate discipline may
29 be imposed pursuant to Rule 14-605.

30 [2] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses
31 involving fraud and the offense of willful failure to file an income tax return. However, some kinds of
32 offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving
33 "moral turpitude." That concept can be construed to include offenses concerning some matters of
34 personal morality, such as adultery and comparable offenses, that have no specific connection to fitness
35 for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer
36 should be professionally answerable only for offenses that indicate lack of those characteristics relevant
37 to law practice. Offenses involving violence, dishonesty, breach of trust or serious interference with the

38 administration of justice are in that category. A pattern of repeated offenses, even ones of minor
39 significance when considered separately, can indicate indifference to legal obligation.

40 ~~[3] A lawyer who, in the course of representing a client, knowingly manifests by words or conduct
41 bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or
42 socioeconomic status, violates paragraph (d) when such actions are prejudicial to the administration of
43 justice. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d). A trial
44 judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone
45 establish a violation of this rule.~~

46 [3] Discrimination and harassment by lawyers in violation of paragraph (g) undermine confidence in
47 the legal profession and the legal system. Such discrimination includes harmful verbal or physical conduct
48 that manifests bias or prejudice towards others. Harassment includes sexual harassment and derogatory
49 or demeaning verbal or physical conduct. Sexual harassment includes unwelcome sexual advances,
50 requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature. The
51 substantive law of antidiscrimination and anti-harassment statutes and case law may guide application of
52 paragraph (g).

53 [3a] The Standards of Professionalism and Civility approved by the Utah Supreme Court are intended
54 to improve the administration of justice. An egregious violation or a pattern of repeated violations of the
55 Standards of Professionalism and Civility may support a finding that the lawyer has violated paragraph
56 (d).

57 [4] Conduct related to the practice of law includes representing clients; interacting with witnesses,
58 coworkers, court personnel, lawyers and others while engaged in the practice of law; operating or
59 managing a law firm or law practice; and participating in bar association, business or social activities in
60 connection with the practice of law. Lawyers may engage in conduct undertaken to promote diversity and
61 inclusion without violating this Rule by, for example, implementing initiatives aimed at recruiting, hiring,
62 retaining and advancing diverse employees or sponsoring diverse law student organizations.

63 [5] A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does
64 not alone establish a violation of paragraph (g). A lawyer does not violate paragraph (g) by limiting the
65 scope or subject matter of the lawyer's practice or by limiting the lawyer's practice to members of
66 underserved populations in accordance with these Rules and other law. A lawyer may charge and collect
67 reasonable fees and expenses for a representation. Rule 1.5(a). Lawyers also should be mindful of their
68 professional obligations under Rule 6.1 to provide legal services to those who are unable to pay, and their
69 obligation under Rule 6.2 not to avoid appointments from a tribunal except for good cause. See Rule
70 6.2(a), (b) and (c). A lawyer's representation of a client does not constitute an endorsement by the lawyer
71 of the client's views or activities. See Rule 1.2(b).

72 [46] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no
73 valid obligation exists. The provisions of Rule 1.2(d) concerning a good faith challenge to the validity,
74 scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

75 | [57] Lawyers holding public office assume legal responsibilities going beyond those of other citizens.
76 | A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers. The
77 | same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian,
78 | agent and officer, director or manager of a corporation or other organization.
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