

Rule 15-607. Aggravation and mitigation.

1 After misconduct has been established, aggravating and mitigating circumstances may be
2 considered and weighed in deciding what sanction to impose.

3 (a) Aggravating circumstances. Aggravating circumstances are any considerations or factors
4 that may justify an increase in the degree of discipline to be imposed. Aggravating circumstances
5 may include:

6 (a)(1) prior record of discipline;

7 (a)(2) dishonest or selfish motive;

8 (a)(3) a pattern of misconduct;

9 (a)(4) multiple offenses;

10 (a)(5) obstruction of the disciplinary proceeding by intentionally failing to comply with rules
11 or orders of the disciplinary authority;

12 (a)(6) submission of false evidence, false statements, or other deceptive practices during the
13 disciplinary process;

14 (a)(7) refusal to acknowledge the wrongful nature of the misconduct involved, either to the
15 client or to the disciplinary authority;

16 (a)(8) vulnerability of victim;

17 (a)(9) substantial experience in the practice of law;

18 (a)(10) lack of good faith effort to make restitution or to rectify the consequences of the
19 misconduct involved; and

20 (a)(11) illegal conduct, including the use of controlled substances.

21 (b) Mitigating circumstances. Mitigating circumstances are any considerations or factors that
22 may justify a reduction in the degree of discipline to be imposed. Mitigating circumstances may
23 include:

24 (b)(1) absence of a prior record of discipline;

25 (b)(2) absence of a dishonest or selfish motive;

26 (b)(3) personal or emotional problems;

27 (b)(4) timely good faith effort to make restitution or to rectify the consequences of the
28 misconduct involved;

29 (b)(5) full and free disclosure to the client or the disciplinary authority prior to the discovery
30 of any misconduct or cooperative attitude toward proceedings;

- 31 (b)(6) inexperience in the practice of law;
- 32 (b)(7) good character or reputation;
- 33 (b)(8) physical disability;
- 34 (b)(9) mental disability or impairment, including substance abuse when:
- 35 (b)(9)(A) the respondent is affected by a substance abuse or mental disability; and
- 36 (b)(9)(B) the substance abuse or mental disability causally contributed to the misconduct; and
- 37 (b)(9)(C) the respondent's recovery from the substance abuse or mental disability is
- 38 demonstrated by a meaningful and sustained period of successful rehabilitation; and
- 39 (b)(9)(D) the recovery arrested the misconduct and the recurrence of that misconduct is
- 40 unlikely;
- 41 (b)(10) unreasonable delay in disciplinary proceedings, provided that the respondent did not
- 42 substantially contribute to the delay and provided further that the respondent has demonstrated
- 43 prejudice resulting from the delay;
- 44 (b)(11) interim reform in circumstances not involving mental disability or impairment;
- 45 (b)(12) imposition of other penalties or sanctions;
- 46 (b)(13) remorse; and
- 47 (b)(14) remoteness of prior offenses.
- 48 (c) Other circumstances. The following circumstances should not be considered as either
- 49 aggravating or mitigating:
- 50 (c)(1) forced or compelled restitution;
- 51 (c)(2) withdrawal of complaint against the licensed practitioner;
- 52 (c)(3) resignation prior to completion of disciplinary proceedings;
- 53 (c)(4) complainant's recommendation as to sanction; and
- 54 (c)(5) failure of injured client to complain.

Effective November 1, 2018