

CHAPTER 32 IOWA RULES OF PROFESSIONAL CONDUCT

PREAMBLE AND SCOPE

Rule 32:1.0 TERMINOLOGY

CLIENT-LAWYER RELATIONSHIP

Rule 32:1.1 COMPETENCE
 Rule 32:1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF
 AUTHORITY BETWEEN CLIENT AND LAWYER
 Rule 32:1.3 DILIGENCE
 Rule 32:1.4 COMMUNICATION
 Rule 32:1.5 FEES
 Rule 32:1.6 CONFIDENTIALITY OF INFORMATION
 Rule 32:1.7 CONFLICT OF INTEREST: CURRENT CLIENTS
 Rule 32:1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES
 Rule 32:1.9 DUTIES TO FORMER CLIENTS
 Rule 32:1.10 IMPUTATION OF CONFLICTS OF INTEREST: GENERAL RULE
 Rule 32:1.11 SPECIAL CONFLICTS OF INTEREST FOR FORMER AND
 CURRENT GOVERNMENT OFFICERS AND EMPLOYEES
 Rule 32:1.12 FORMER JUDGE, ARBITRATOR, MEDIATOR, OR OTHER
 THIRD-PARTY NEUTRAL
 Rule 32:1.13 ORGANIZATION AS CLIENT
 Rule 32:1.14 CLIENT WITH DIMINISHED CAPACITY
 Rule 32:1.15 SAFEKEEPING PROPERTY
 Rule 32:1.16 DECLINING OR TERMINATING REPRESENTATION
 Rule 32:1.17 SALE OF LAW PRACTICE
 Rule 32:1.18 DUTIES TO PROSPECTIVE CLIENT

COUNSELOR

Rule 32:2.1 ADVISOR
 Rule 32:2.2 (REERVED)
 Rule 32:2.3 EVALUATION FOR USE BY THIRD PERSONS
 Rule 32:2.4 LAWYER SERVING AS THIRD-PARTY NEUTRAL

ADVOCATE

Rule 32:3.1 MERITORIOUS CLAIMS AND CONTENTIONS
 Rule 32:3.2 EXPEDITING LITIGATION
 Rule 32:3.3 CANDOR TOWARD THE TRIBUNAL
 Rule 32:3.4 FAIRNESS TO OPPOSING PARTY AND COUNSEL
 Rule 32:3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL
 Rule 32:3.6 TRIAL PUBLICITY
 Rule 32:3.7 LAWYER AS WITNESS
 Rule 32:3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR
 Rule 32:3.9 ADVOCATE IN NONADJUDICATIVE PROCEEDINGS

TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS

Rule 32:4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS
 Rule 32:4.2 COMMUNICATION WITH PERSON REPRESENTED BY COUNSEL
 Rule 32:4.3 DEALING WITH UNREPRESENTED PERSON
 Rule 32:4.4 RESPECT FOR RIGHTS OF THIRD PERSONS

LAW FIRMS AND ASSOCIATIONS

Rule 32:5.1 RESPONSIBILITIES OF PARTNERS, MANAGERS, AND
 SUPERVISORY LAWYERS
 Rule 32:5.2 RESPONSIBILITIES OF A SUBORDINATE LAWYER

Rule 32:5.3	RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS
Rule 32:5.4	PROFESSIONAL INDEPENDENCE OF A LAWYER
Rule 32:5.5	UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW
Rule 32:5.6	RESTRICTIONS ON RIGHT TO PRACTICE
Rule 32:5.7	RESPONSIBILITIES REGARDING LAW-RELATED SERVICES

PUBLIC SERVICE

Rule 32:6.1	VOLUNTARY PRO BONO PUBLICO SERVICE
Rule 32:6.2	ACCEPTING APPOINTMENTS
Rule 32:6.3	MEMBERSHIP IN LEGAL SERVICES ORGANIZATION
Rule 32:6.4	LAW REFORM ACTIVITIES AFFECTING CLIENT INTERESTS
Rule 32:6.5	NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICES PROGRAMS

INFORMATION ABOUT LEGAL SERVICES

Rule 32:7.1	COMMUNICATIONS CONCERNING A LAWYER'S SERVICES
Rule 32:7.2	ADVERTISING
Rule 32:7.3	SOLICITATION OF CLIENTS
Rule 32:7.4	COMMUNICATION OF FIELDS OF PRACTICE AND SPECIALIZATION
Rule 32:7.5	FIRM NAMES AND LETTERHEADS
Rule 32:7.6	POLITICAL CONTRIBUTIONS TO OBTAIN GOVERNMENT LEGAL ENGAGEMENTS OR APPOINTMENTS BY JUDGES

MAINTAINING THE INTEGRITY OF THE PROFESSION

Rule 32:8.1	BAR ADMISSION AND DISCIPLINARY MATTERS
Rule 32:8.2	JUDICIAL AND LEGAL OFFICIALS
Rule 32:8.3	REPORTING PROFESSIONAL MISCONDUCT
Rule 32:8.4	MISCONDUCT
Rule 32:8.5	DISCIPLINARY AUTHORITY; CHOICE OF LAW

[1] Assessments by lawyers are relied on in evaluating the professional or personal fitness of persons being considered for election or appointment to judicial office and to public legal offices, such as attorney general, prosecuting attorney, and public defender. Expressing honest and candid opinions on such matters contributes to improving the administration of justice. Conversely, false statements by a lawyer can unfairly undermine public confidence in the administration of justice.

[2] When a lawyer seeks judicial office, the lawyer should be bound by applicable limitations on political activity.

[3] To maintain the fair and independent administration of justice, lawyers are encouraged to continue traditional efforts to defend judges and courts unjustly criticized.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:8.3: REPORTING PROFESSIONAL MISCONDUCT

(a) A lawyer who knows that another lawyer has committed a violation of the Iowa Rules of Professional Conduct shall inform the appropriate professional authority.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct shall inform the appropriate authority.

(c) This rule does not require disclosure of information otherwise protected by rule 32:1.6 or Iowa Code section 622.10 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.

Comment

[1] Self-regulation of the legal profession requires that members of the profession initiate disciplinary investigation when they know of a violation of the Iowa Rules of Professional Conduct. Lawyers have a similar obligation with respect to judicial misconduct. An apparently isolated violation may indicate a pattern of misconduct that only a disciplinary investigation can uncover. Reporting a violation is especially important where the victim is unlikely to discover the offense.

[2] A report about misconduct is not required where it would involve violation of rule 32:1.6 or Iowa Code section 622.10. However, a lawyer should encourage a client to consent to disclosure where prosecution of the professional misconduct would not substantially prejudice the client's interests.

[3] (Reserved)

[4] The duty to report professional misconduct does not apply to a lawyer retained to represent a lawyer whose professional conduct is in question. Such a situation is governed by the rules applicable to the client-lawyer relationship and Iowa Code section 622.10.

[5] Information about a lawyer's or judge's misconduct or fitness may be received by a lawyer in the course of that lawyer's participation in an approved lawyers or judges assistance program. In that circumstance, providing for an exception to the reporting requirements of paragraphs (a) and (b) of this rule encourages lawyers and judges to seek treatment through such a program. Conversely, without such an exception, lawyers and judges may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public. These rules do not otherwise address the confidentiality of information received by a lawyer or judge participating in an approved lawyers assistance program; such an obligation, however, may be imposed by the rules of the program or other law.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

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

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

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

- (d) engage in conduct that is prejudicial to the administration of justice;**
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Iowa Rules of Professional Conduct or other law;**
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or**
- (g) engage in sexual harassment or other unlawful discrimination in the practice of law or knowingly permit staff or agents subject to the lawyer's direction and control to do so.**

Comment

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

[2] Illegal conduct can reflect adversely on fitness to practice law. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

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

[4] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of rule 32:1.2(d) concerning a good faith challenge to the validity, scope, meaning, or application of the law apply to challenges of legal regulation of the practice of law.

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

[6] It is not professional misconduct for a lawyer to advise clients or others about or to supervise or participate in lawful covert activity in the investigation of violations of civil or criminal law or constitutional rights or in lawful intelligence-gathering activity, provided the lawyer's conduct is otherwise in compliance with these rules. "Covert activity" means an effort to obtain information on unlawful activity through the use of misrepresentations or other subterfuge. Covert activity may be commenced by a lawyer or involve a lawyer as an advisor or supervisor only when the lawyer in good faith believes there is a reasonable possibility that unlawful activity has taken place, is taking place, or will take place in the foreseeable future. Likewise, a government lawyer who supervises or participates in a lawful covert operation which involves misrepresentation or deceit for the purpose of gathering relevant information, such as law enforcement investigation of suspected illegal activity or an intelligence-gathering activity, does not, without more, violate this rule.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:8.5: DISCIPLINARY AUTHORITY; CHOICE OF LAW

(a) Disciplinary Authority. A lawyer admitted to practice in Iowa is subject to the disciplinary authority of Iowa, regardless of where the lawyer's conduct occurs. A lawyer not admitted in Iowa is also subject to the disciplinary authority of Iowa if the lawyer provides or offers to provide any legal services in Iowa. A lawyer may be subject to the disciplinary authority of both Iowa and another jurisdiction for the same conduct.

(b) Choice of Law. In any exercise of the disciplinary authority of Iowa, the rules of professional conduct to be applied shall be as follows:

(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct