

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
4 or induce another 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,
6 trustworthiness or fitness as a lawyer in other respects;

7 (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation,
8 except that a lawyer may participate in lawful investigatory activities employing
9 deception for the purpose of detecting ongoing violations of law;

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

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

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

16 **Comment**

17 [1] Lawyers are subject to discipline when they violate or attempt to violate the Rules of
18 Professional Conduct or knowingly assist or induce another to do so through the acts of
19 another, as when they request or instruct an agent to do so on the lawyer's behalf.
20 Paragraph (a), however, does not prohibit a lawyer from advising a client concerning
21 action the client is legally entitled to take.

22 [1a] An act of professional misconduct under Rule 8.4(b), (c), (d), (e), or (f) cannot be
23 counted as a separate violation of Rule 8.4(a) for the purpose of determining sanctions.
24 Conduct that violates other Rules of Professional Conduct, however, may be a violation
25 of Rule 8.4(a) for the purpose of determining sanctions.

26 [2] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as
27 offenses involving fraud and the offense of willful failure to file an income tax return.

28 However, some kinds of offenses carry no such implication. Traditionally, the distinction
29 was drawn in terms of offenses involving "moral turpitude." That concept can be
30 construed to include offenses concerning some matters of personal morality, such as
31 adultery and comparable offenses, that have no specific connection to fitness for the
32 practice of law. Although a lawyer is personally answerable to the entire criminal law, a
33 lawyer should be professionally answerable only for offenses that indicate lack of those
34 characteristics relevant to law practice. Offenses involving violence, dishonesty, breach
35 of trust or serious interference with the administration of justice are in that category. A
36 pattern of repeated offenses, even ones of minor significance when considered separately,
37 can indicate indifference to legal obligation.

38 [2a] Paragraph (c) provides a safe harbor for attorneys who engage in lawful covert
39 operations, often in criminal investigations or investigations involving suspected
40 violations of constitutional rights or civil law. Examples covered by this rule are
41 governmental "sting" operations; use of testers in fair-housing cases to determine
42 whether landlords or real estate agents discriminate against protected classes of
43 applicants; and gathering evidence of copyright violations. These are legitimate activities
44 that benefit the common good and that courts and commentators have long recognized
45 do not violate ethics rules. The safe harbor does not apply when a lawyer uses deception
46 to violate others' constitutional rights or directs others to do so, and it does not change
47 the lawyer's obligations for candor and fairness under Rules 3.3 and 3.4. Note adopted
48 2023.

49 [3] A lawyer who, in the course of representing a client, knowingly manifests by words
50 or conduct bias or prejudice based upon race, sex, religion, national origin, disability, age,
51 sexual orientation, or socioeconomic status, violates paragraph (d) when such actions are
52 prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing
53 factors does not violate paragraph (d). A trial judge's finding that peremptory challenges
54 were exercised on a discriminatory basis does not alone establish a violation of this rule.

55 [3a] The Standards of Professionalism and Civility approved by the Utah Supreme Court
56 are intended to improve the administration of justice. An egregious violation or a pattern

57 of repeated violations of the Standards of Professionalism and Civility may support a
58 finding that the lawyer has violated paragraph (d).

59 [4] A lawyer may refuse to comply with an obligation imposed by law upon a good faith
60 belief that no valid obligation exists. The provisions of Rule 1.2(d) concerning a good faith
61 challenge to the validity, scope, meaning or application of the law apply to challenges of
62 legal regulation of the practice of law.

63 [5] Lawyers holding public office assume legal responsibilities going beyond those of
64 other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the
65 professional role of lawyers. The same is true of abuse of positions of private trust such
66 as trustee, executor, administrator, guardian, agent and officer, director or manager of a
67 corporation or other organization.

68 [6] This rule differs from the ABA Model Rule.