

Alabama Standards for Imposing Lawyer Discipline

Section II. Standards for Imposing Lawyer Discipline.

C. Factors to Be Considered in Imposing Discipline.

STANDARD 4.0. VIOLATIONS OF DUTIES OWED TO CLIENTS.

Standard 4.1. Failure to Preserve the Client's Property.

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following discipline is generally appropriate in cases involving the failure to preserve client property:

4.11. Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.

4.12. Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

4.13. Public reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.

4.14. Private reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes little or no actual or potential injury to a client.

Standard 4.2. Failure to Preserve the Client's Confidences.

Absent aggravating or mitigating circumstances upon application of the factors set out in Standard 3.0, the following discipline is generally appropriate in cases involving improper revelation of information relating to representation of a client:

4.21. Disbarment is generally appropriate when a lawyer, with the intent to benefit the lawyer or another, knowingly reveals information relating to representation of a client not otherwise lawfully permitted to be disclosed and this disclosure causes injury or potential injury to a client.

4.22. Suspension is generally appropriate when a lawyer knowingly reveals information relating to the representation of a client not otherwise lawfully permitted to be disclosed and this disclosure causes injury or potential injury to a client.

4.23. Public reprimand is generally appropriate when a lawyer negligently reveals information relating to representation of a client not otherwise lawfully permitted to be disclosed and this disclosure causes injury or potential injury to a client.

4.24. Private reprimand is generally appropriate when a lawyer negligently reveals information relating to representation of a client not otherwise lawfully permitted to be disclosed and this disclosure causes little or no actual or potential injury to a client.

Standard 4.3. Failure to Avoid Conflicts of Interest.

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following discipline is generally appropriate in cases involving conflicts of interest:

4.31. Disbarment is generally appropriate when a lawyer, without the informed consent of a client or clients:

(a) Engages in representation of a client knowing that the lawyer's interests are adverse to the client's, with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to the client; or

(b) Simultaneously represents clients that the lawyer knows have adverse interests, with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to a client;

(c) Represents a client in a matter substantially related to a matter in which the interests of a present or former client are materially adverse, and knowingly uses information relating to the representation of a client with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to a client.

4.32. Suspension is generally appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict and causes injury or potential injury to a client.

4.33. Public reprimand is generally appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes injury or potential injury to a client.

4.34. Private reprimand is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes little or no actual or potential injury to a client.

Standard 4.4. Lack of Diligence.

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following discipline is generally appropriate in cases involving a failure to act with reasonable diligence and promptness in representing a client:

4.41. Disbarment is generally appropriate when:

(a) A lawyer abandons the practice and causes serious or potentially serious injury to a client; or

(b) A lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or

(c) A lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

4.42. Suspension is generally appropriate when:

(a) A lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or

(b) A lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

4.43. Public reprimand is generally appropriate when a lawyer willfully neglects a legal matter entrusted to him and causes injury or potential injury to a client.

4.44. Private reprimand is generally appropriate when a lawyer willfully neglects a legal matter entrusted to him and causes injury or potential injury to a client.

Standard 4.5. Lack of Competence.

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following discipline is generally appropriate in cases involving failure to provide competent representation to a client:

4.51. Disbarment is generally appropriate when a lawyer's course of conduct demonstrates that the lawyer does not understand the most fundamental legal doctrines or procedures, and the lawyer's conduct causes injury or potential injury to a client.

4.52. Suspension is generally appropriate when a lawyer engages in an area of practice in which the lawyer knows he or she is not competent, and causes injury

or potential injury to a client.

4.53. Public reprimand is generally appropriate when a lawyer:

(a) Demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or

(b) Is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client.

4.54. Private reprimand is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether he or she is competent to handle a legal matter, and causes little or no actual or potential injury to a client.

Standard 4.6. Lack of Candor.

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following discipline is generally appropriate in cases where the lawyer engages in fraud, deceit, or misrepresentation directed toward a client:

4.61. Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potential serious injury to a client.

4.62. Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.

4.63. Public reprimand is generally appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes injury or potential injury to the client.

4.64. Private reprimand is generally appropriate when a lawyer engages in an isolated instance of negligence in failing to provide a client with accurate or complete information, and causes little or no actual or potential injury to the client.