

Alabama Rules of Professional Conduct

Client-Lawyer Relationship

Rule 1.4.

Communication.

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Comment

The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. For example, a lawyer negotiating on behalf of a client should provide the client with facts relevant to the matter, inform the client of communications from another party, and take other reasonable steps that permit the client to make a decision regarding a serious offer from another party. A lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case should promptly inform the client of its substance unless prior discussions with the client have left it clear that the proposal will be unacceptable. See Rule 1.2(a). Even when a client delegates authority to the lawyer, the client should be kept advised of the status of the matter.

Adequacy of communication depends in part on the kind of advice or assistance involved. For example, in negotiations where there is time to explain a proposal, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that might injure or coerce others. On the other hand, a lawyer ordinarily cannot be expected to describe trial or negotiation strategy in detail.

The guiding principle under this Rule is that the lawyer should fulfill the reasonable expectation of the client for information. In determining what is reasonable, the lawyer must consider that the lawyer has a duty to act in the client's best interests. However, each client will have different levels of willingness, ability, and desire to participate intelligently in the representation. These levels are often dependent upon the kind of representation. Thus, the guiding principle is contingent upon the client's reasonable expectation but is limited or expanded by the client's willingness, ability and desire to participate in the particular representation, and by the practicability of the lawyer's meeting the client's expectations.

Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from mental disability. See Rule 1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. See Rule 1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client. Practical exigency may also require a lawyer to act for a client without prior consultation.

Withholding Information

In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication. Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer may not withhold information to serve the lawyer's own interest or convenience. Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. Rule 3.4(c) directs compliance with such rules or orders.

Comparison with Former Alabama Code of Professional Responsibility

Rule 1.4 has no direct counterpart in the Disciplinary Rules. DR 6-101(A) provided that a lawyer shall not "willfully neglect a legal matter entrusted to him." DR 9-102(B)(1) provided that a lawyer shall "[p]romptly notify a client of the receipt of his funds, securities, or other properties." EC 7-8 stated that a lawyer "should exert his best efforts to ensure that decisions of his client are made only after the client has been informed of relevant considerations." EC 9-2 stated that "a lawyer should fully and promptly inform his client of material developments in the matters being handled for the client."