

Alabama Rules of Disciplinary Procedure

Rule 8.

Types of discipline.

(a) *Disbarment.* Disbarment terminates the individual's status as a lawyer and may result from a hearing or by consent as provided in Rule 23. A person who has been disbarred may not apply for reinstatement until the expiration of at least five (5) years from the effective date of disbarment. A lawyer shall remain disbarred until reinstated to the practice of law pursuant to Rule 28. A lawyer who has been disbarred after reinstatement following a prior disbarment shall not be reinstated.

(b) *Suspension.* Suspension is the removal of a lawyer from the practice of law for a specified period of time not less than forty-five (45) days and not more than five (5) years, unless the suspension is conditioned upon the satisfaction of some condition, such as restitution of client funds, in which case the suspension shall continue until the condition is satisfied. Suspension may result from a hearing or by consent as provided in Rule 24. A lawyer who has been suspended for ninety (90) days or less will be automatically reinstated upon expiration of the period of suspension and the filing of an affidavit that he or she has complied with all applicable discipline or disability orders and rules. A lawyer who has been suspended for more than ninety (90) days must apply for reinstatement pursuant to Rule 28, unless the order of suspension expressly provides otherwise, and will remain suspended until reinstated.

(c) *Interim Suspension.*

- (1) Interim suspension is the temporary suspension of a lawyer from the practice of law pending imposition of final discipline. The Disciplinary Commission may, pursuant to Rule 20 of these Rules, place a lawyer on interim suspension immediately upon proof that the lawyer has been convicted of a "serious crime" or that the lawyer's continuing conduct is causing or is likely to cause immediate and serious injury to a client or to the public.
- (2) A "serious crime" is defined as:
 - (A) A felony;
 - (B) A lesser crime involving moral turpitude;
 - (C) A lesser crime, a necessary element of which, as determined by the statutory or common-law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or

- (D) An attempt, a conspiracy, or the solicitation of another to commit a “serious crime.”

(d) *Indefinite Suspension.* A lawyer may be suspended indefinitely from the practice of law for failing to comply with the Client Security Fund Rules, the Mandatory Continuing Legal Education Rules, and the Interest on Lawyer Trust Account Rules of the Alabama State Bar.

(e) *Summary Suspension.* A member who fails to pay any assessment, costs, or restitution as ordered by the Alabama Supreme Court, the Disciplinary Commission, or the Disciplinary Board within 30 days following entry of the judgment or order or a later time as fixed in the judgment or order, or who fails to participate in formal proceedings or to respond to requests for information concerning a disciplinary matter shall be summarily suspended upon order of the Disciplinary Commission of the Alabama State Bar, pursuant to Rule 20 of these Rules.

(f) *Public Reprimand.* Public reprimand is a form of public discipline that declares the conduct of the lawyer improper, but does not limit the lawyer's right to practice. The two versions of public reprimand are:

- (1) A public reprimand with general publication requires, in accordance with Rule 33 of these Rules, publication in the official Bar publication and in a newspaper of general circulation in each judicial circuit in the State of Alabama in which the respondent maintained or maintains an office for the practice of law.
- (2) A public reprimand without general publication requires, in accordance with Rule 33 of these Rules, a publication in the official Bar publication to include the name of the respondent, but no publication in the newspaper is permitted. This type of public reprimand is nevertheless public and may be released upon request by any interested party.

(g) *Private Reprimand.* Private reprimand is a form of non-public discipline that declares the conduct of the lawyer improper, but does not limit the lawyer's right to practice.

(h) *Probation.* Probation is a sanction that allows a lawyer to practice law under specified conditions and may be imposed alone or in conjunction with other forms of discipline. Probation shall be public unless otherwise ordered by the Disciplinary Commission or Disciplinary Board. Probation may also be imposed as a condition of reinstatement.

Probation should be used only in those cases where there is little likelihood that the respondent lawyer will harm the public during the period of probation and where the conditions of the probation can be adequately supervised. Probation may be appropriate in certain cases of disability, if the condition is capable of treatment without

transfer to the disability inactive status.

Probation must be imposed for a specified period.

(i) *Additional Sanctions and Remedies.* In conjunction with any of the above punishments, the Disciplinary Board or the Disciplinary Commission may impose any of the following sanctions and remedies:

- (1) Restitution;
- (2) Assessment of cost (not including lawyer's fees);
- (3) Limitation upon practice;
- (4) Appointment of a receiver;
- (5) Requirement that the lawyer retake and pass the State Bar examination or the professional responsibility examination, or both;
- (6) Requirement that the lawyer attend continuing legal education courses approved by the Alabama State Bar; and
- (7) Other requirements consistent with the purposes of lawyer discipline.

[Amended eff. 8-1-2000; Amended 9-12-2008, eff. 10-6-2008; Amended 9-20-2016, eff. 1-1-2017.]

Note from the reporter of decisions: The order adopting Rule 8(e), effective August 1, 2000, is published in that volume of *Alabama Reporter* that contains Alabama cases from 753 So.2d.

Note from the reporter of decisions: The order amending Rule 4, Rule 4.1, Rule 4.2, Rule 5, Rule 8, Rule 12, Rule 15, Rule 20, Rule 21, Rule 22, Rule 23, Rule 27, Rule 28, Rule 29, Rule 32, Rule 33, and Rule 35, and adopting Rule 12.1, effective October 6, 2008, is published in that volume of *Alabama Reporter* that contains Alabama cases from 994 So.2d.

Note from the reporter of decisions: The order amending Rule 8(a) and (b), Rule 10(a) and (b), Rule 17(f), Rule 18, Rule 26(h)(2), Rule 28(e), and Appendix A, Ala. R. Disc. P., effective January 1, 2017, is published in that volume of *Alabama Reporter* that contains Alabama cases from ____ So. 3d.