

## Rule 8.4. Misconduct

SD ST RPC APP CH 16-18 Rule 8.4 | South Dakota Codified Laws | Title 16. Courts and Judiciary

### Search Details

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Jurisdiction: South Dakota


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SDCL Rules of Professional Conduct, Appendix, Ch. 16-18 Rule 8.4  
Rule 8.4. Misconduct  
Currentness

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the 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 Rules of Professional Conduct or other law; or
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

**Credits**

**Source:** [SL 2004, ch 327 \(Supreme Court Rule 03-26\)](#), eff. Jan. 1, 2004.

**Editors' Notes**

**COMMENT:**

[1] Lawyers are subject to discipline when they violate or attempt to violate the 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] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving “moral turpitude.” That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. 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.

[4] Sexual harassment or sexual misconduct by a lawyer, while engaging in the practice of law or any law-related functions, undermines the confidence in the legal profession and the legal system and, as a result, is prejudicial to the administration of justice. Sexual harassment or sexual misconduct includes unwelcomed sexual advances, requests for sexual favors, and other objectively offensive verbal or physical conduct or communications of a sexual nature.

[5] 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 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.

[6] 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 lawyers. 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.

#### [Notes of Decisions \(132\)](#)

S D C L RPC, App, Ch. 16-18 Rule 8.4, SD ST RPC APP CH 16-18 Rule 8.4  
Current through laws of the 2022 Regular Session effective March 18, 2022 and Supreme Court Rule 22-10

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