

	<p style="text-align: center;">American Bar Association CPR Policy Implementation Committee</p> <p style="text-align: center;">Variations of the ABA Model Rules of Professional Conduct</p> <p>Rule 1.18: Duties to Prospective Client</p> <p>(a) A person who discusses with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.</p> <p>(b) Even when no client-lawyer relationship ensues, a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation, except as Rule 1.9 would permit with respect to information of a former client.</p> <p>(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).</p> <p>(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:</p> <ul style="list-style-type: none">(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or:(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and<ul style="list-style-type: none">(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and(ii) written notice is promptly given to the prospective client. <p>Variations from ABA Model Rule are noted. Based on reports of state committees reviewing recent changes to the model rules. For information on individual state committee reports, see http://www.abanet.org/cpr/jclr/home.html.</p> <p>Comments not included.</p> <p>*Current links to state Rules of Professional conduct can be found on the ABA website: http://www.abanet.org/cpr/links.html*</p>
AL	Does not adopt

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Effective 2/19/09	
AK Effective 4/15/09	Same as MR
AZ Effective 12/1/03	(d): same as Ethics 2000 draft of November 2000. (d) Representation is permissible if both the affected client and the prospective client have given informed consent, confirmed in writing, or: (1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and (2) written notice is promptly given to the prospective client.
AR Effective 5/1/05	Same as MR
CA Current Rule	[California's Rules of Professional Conduct are structured differently from the ABA Model Rules. Please see California Rules : http://calbar.ca.gov/calbar/pdfs/rules/Rules_Professional-Conduct.pdf]
CO Effective 1/1/08	(c) Replaces "that person in the matter" with "the prospective client."
CT Effective 1/1/07	(a): adds "or communicates" after "discusses" and "concerning" before "the possibility" (d)(2)(i): deletes "and is apportioned no part of the fee therefrom"
DE Effective 7/1/03	Same as MR
District of Columbia Effective 2/1/07	(b): replaces language after "consultation with "except as permitted by Rule 1.6" (c): replaces "information" with "confidence or secret," deletes "that could be significantly harmful to that person in the matter" (d): replaces "disqualifying information as defined in paragraph (c)" with "a confidence or secret from the prospective client" (d)(1): deletes "confirmed in writing" Does not have MR (d)(2) (d)(2): same as MR (d)(2)(i) but deletes language after "matter" Does not have MR (d)(2)(ii)
FL Effective 5/22/06	(a): adds to beginning "Prospective Client." (b): adds to beginning "Confidentiality of Information." (c): adds to beginning "Subsequent Representation.", replaces "significantly harmful to" in first sentence with "used to the disadvantage of," replaces "under this paragraph" in the second sentence with "under this rule" (d): adds to beginning "Permissible Representation."
GA* Effective 1/1/01	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i>

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	Does not have
HI* Effective 1/1/94	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> Does not have.
ID Effective 7/1/04	(d): "Representation is permissible if both the affected client and the prospective client have given informed consent, confirmed in writing."
IL Effective 1/1/2010	(d)(1) Deletes "confirmed in writing;" Adds to end of paragraph, "that lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom;" Deletes (d)(2)(i) and (ii).
IN Effective 1/1/05	Same as MR
IA Effective 7/1/05	Same as MR
KS Effective 7/1/07	Kansas Rule 1.17 is the same as MR Rule 1.18.
KY Effective 7/15/09	Same as MR
LA Effective 3/1/04	Same as MR
ME Effective 8/1/09	Same as MR
MD Effective 7/1/05	(d): Representation is permissible if both the affected client and the prospective client have given informed consent, confirmed in writing, or the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom.
MA Rules effective 9/1/08	Does not adopt
MI* Rules effective 10/1/88	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> Does not have.
New Rule Proposed 11/24/09	Does not have.

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MN Effective 10/1/05	Same as MR
MS Effective 11/3/05	Did not adopt
MO Effective 7/1/07	(d)(2) Last clause, starting with “the disqualified lawyer” is similar to MR (d)(2) combines MR (d)(2) and (d)(2)(ii). Does not adopt MR (d)(2)(i).
MT Effective 4/1/04	have a rule here on IOLTA
NE Effective 9/1/05	Same as MR
NV Effective 5/1/06	<p>Adds (e) A person who communicates information to a lawyer without any reasonable expectation that the lawyer is willing to discuss the possibility of forming a client-lawyer relationship, or for purposes which do not include a good faith intention to retain the lawyer in the subject matter of the consultation, is not a “prospective client” within the meaning of this Rule.</p> <p>Adds (f) A lawyer may condition conversations with a prospective client on the person’s informed consent that no information disclosed during the consultation will prohibit the lawyer from representing a different client in the matter. If the agreement expressly so provides, the prospective client may also consent to the lawyer’s subsequent use of information received from the prospective client.</p> <p>Adds (g) Whenever a prospective client shall request information regarding a lawyer or law firm for the purpose of making a decision regarding employment of the lawyer or law firm:</p> <p>(1) The lawyer or law firm shall promptly furnish (by mail if requested) the written information described in Rule 1.4(c).</p> <p>(2) The lawyer or law firm may furnish such additional factual information regarding the lawyer or law firm deemed valuable to assist the client.</p> <p>(3) If the information furnished to the client includes a fee contract, the top of each page of the contract shall be marked “SAMPLE” in red ink in a type size larger than the largest type used in the contract and the words “DO NOT SIGN” shall appear on the client signature line.</p>
NH Effective 1/1/08	(b) Changes “had discussions with” to “received and reviewed information from;” deletes “learned in the consultation;” (d)(2)(a) and (b) are equivalent to MR (d)(2)(i) and (ii).
NJ Effective 1/1/04	Title is “Prospective Client” (a) (MR b): Even when no client-lawyer relationship ensues, A lawyer who has had discussions <u>in consultation</u> with a prospective client shall not use or reveal information <u>learned acquired</u> in the consultation, <u>even when no client-lawyer relationship ensues</u> , except as RPC 1.9 would permit in

	<p>respect of information of a former client. (b) is similar to MR (c), but does not include the last sentence of MR (c) and refers to “former prospective clients.” (c) is similar to MR (d). The first sentence of (c) is from last sentence of MR (c). The exception for screening is like the Ethics 2000 August 2001 draft. (d) (MR a), adds: and if no client-lawyer relationship is formed, is a “former prospective client.”</p>
<p>NM Effective 11/2/09</p>	<p>Changed to Rule 16-118; (a) Renamed “A definition of “prospective client;”” (b) Renamed “B. Confidential information;” Replaces “Rule1.9” with “Rule 16-109 of the Rules of Professional Conduct;” (c) Renamed “C. Certain representations prohibited;” Replaces “paragraph (b)” with “Paragraph B of this rule” and “paragraph (d)” with “Paragraph D” in two instances; (d) Renamed “D. When representation is permitted;” Replaces “paragraph (c)” with “Paragraph C.”</p>
<p>NY Effective 4/1/09</p>	<p>Does not adopt MR (d)(2)(i); Adds: <i>(i) the firm acts promptly and reasonably to notify, as appropriate, lawyers and nonlawyer personnel within the firm that the personally disqualified lawyer is prohibited from participating in the representation of the current client;</i> <i>(ii) the firm implements effective screening procedures to prevent the flow of information about the matter between the disqualified lawyer and the others in the firm;</i> <i>(iii) the disqualified lawyer is apportioned no part of the fee therefrom; and</i> Adds (c)(3): <i>(3) a reasonable lawyer would conclude that the law firm will be able to provide competent and diligent representation in the matter.</i> Adds (e): (e) A person who: <i>(1) communicates information unilaterally to a lawyer, without any reasonable expectation that the lawyer is willing to discuss the possibility of forming a client-lawyer relationship; or</i> <i>(2) communicates with a lawyer for the purpose of disqualifying the lawyer from handling a materially adverse representation on the same or a substantially related matter, is not a prospective client with the meaning of paragraph (a).</i></p>
<p>NC Effective 3/1/03</p>	<p>proposed rule from E2k draft of November 2000 without the limitation of apportionment of fees. (d) Representation is permissible if both the affected client and the prospective client have given informed consent, confirmed in writing, or:</p>

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	<p>(1) the disqualified lawyer is timely screened from any participation in the matter; and</p> <p>(2) written notice is promptly given to the prospective client.</p>
<p>ND Effective 8/1/06</p>	<p>Replaces “prospective” with “potential” throughout rule</p> <p>(b): inserts “significantly harmful” after “reveal”</p> <p>(d): replaces “disqualifying information as defined in paragraph (c)” with “significantly harmful information”</p> <p>(d)(1): changes end to “have given consent”</p> <p>(d)(2): changes “disqualifying information” with “significantly harmful information,” adds “and notice is promptly given to the potential client” to end</p> <p>(d)(2)(i) and (ii): does not have</p>
<p>OH Effective 2/1/07</p>	<p>(d): adds to end “either of the following applies”</p> <p>(d)(2): adds to end “both of the following apply”</p>
<p>OK Effective 1/1/08</p>	<p>Same as MR</p>
<p>OR Effective 12/1/06</p>	<p>proposed rule from E2k draft of August 2001 without the limitation on apportionment of fees.</p> <p>(d) Representation is permissible if both the affected client and the prospective client have given informed consent, confirmed in writing, or:</p> <p>(1) the disqualified lawyer is timely screened from any participation in the matter; and</p> <p>(2) written notice is promptly given to the prospective client.</p>
<p>PA Effective 7/1/06</p>	<p>(b): adds “which may be significantly harmful” before “learned in the consultation.</p> <p>(d)(1): does not include “confirmed in writing”</p> <p>(d)(2): changes the format so there are three subparts to (d)(2) but substance is essentially the same except: refers to “the disqualified lawyer” rather than “the lawyer who received the information”; does not include “timely” with regard to screening.</p>
<p>RI Effective 4/15/07</p>	<p>Same as MR</p>
<p>SC Effective 10/1/05</p>	<p>(a) A person with whom a lawyer discusses the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client only when there is a reasonable expectation that the lawyer is likely to form the relationship.</p>
<p>SD Effective 1/1/04</p>	<p>Same as MR</p>
<p>TN Effective 1/1/2011</p>	<p>(d)(2)(i) Deletes language after “any participation in the matter;”</p> <p>Adds (e)</p> <p><i>When no client-lawyer relationship ensues, a prospective client is entitled, upon request, to have the lawyer return all papers and property in the</i></p>

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	<i>lawyer's possession, custody, or control that were provided by the prospective client to the lawyer in connection with consideration of the prospective client's matter.</i>
TX* Effective 3/1/05	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> Does not have
UT Effective 11/1/05	Same as MR
VT Effective 9/1/09	(a) Adds clause, "in good faith," after "a person who;" (b) Adds after "except as:" " Rule 1.6 would require or permit or as Rule 1.9."
VA Effective 1/1/04	Does not adopt
WA Effective 9/1/06	(b): adds to end "or except as provided in paragraph (e)" (c): changes to "except as provided in paragraphs (d) and (e)" Adds (e) A lawyer may condition conversations with a prospective client on the person's informed consent that no information disclosed during the consultation will prohibit the lawyer from representing a different client in the matter. The prospective client may also expressly consent to the lawyer's subsequent use of information received from the prospective client.
WV* Effective 1/1/89	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> Does not adopt
WI Effective 7/1/07	Same as MR
WY Effective 7/1/06	(d)(1), changes end: "prospective client have made an informed decision to allow the representation, confirmed in writing signed by the affected client and the prospective client; or"

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