

	<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 style="text-align: center;">Rule 4.4 Respect For Rights Of Third Persons</p> <p>(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.</p> <p>(b) A lawyer who receives a document relating to the representation of the lawyer's client and knows or reasonably should know that the document was inadvertently sent shall promptly notify the sender.</p> <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>
<p>AL Effective 2/19/09</p>	<p>(b) Deletes clause, “relating...lawyer’s client” and adds instead, “that on its face appears to be subject to the attorney-client privilege or otherwise confidential;” adds “who” before “knows;” adds “and” to end of paragraph and adds two subparagraphs: <i>(1) abide by the reasonable instructions of the sender regarding the disposition of the document; or</i> <i>(2) submit the issue to an appropriate tribunal for a determination of the disposition of the document.</i></p>
<p>AK Effective 4/15/09</p>	<p>Same as MR</p>
<p>AZ Effective 12/1/03</p>	<p>Title : Respect for Rights of Others (a): substitutes “any other person” for “a third person” (b) did not add “relating to the representation of the lawyer’s client”; adds at the end: “.. and preserve the status quo for a reasonable period of time in order to permit the sender to take protective measures.”</p>
<p>AR Effective 5/1/05</p>	<p>Same as MR</p>
<p>CA Current Rule</p>	<p>[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]</p>

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CO Effective 1/1/08	Adds : <i>(c) Unless otherwise permitted by court order, a lawyer who receives a document relating to the representation of the lawyer's client and who, before reviewing the document, receives notice from the sender that the document was inadvertently sent, shall not examine the document and shall abide by the sender's instructions as to its disposition.</i>
CT Effective 1/1/07	Same as MR
DE Effective 7/1/03	Same as MR
District of Columbia Effective 2/1/07	(a): adds "knowingly" before "use methods" (b) A lawyer who receives a writing relating to the representation of a client and knows, before examining the writing, that it has been inadvertently sent, shall not examine the writing, but shall notify the sending party and abide by the instructions of the sending party regarding the return or destruction of the writing.
FL Effective 5/22/06	(a): adds "knowingly" before "use methods"
GA* Effective 1/1/01	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> Does not have MR (b) ; Adds to end: "The maximum penalty for a violation of this Rule is a public reprimand."
HI* Effective 1/1/94	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> Does not have MR (b).
ID Effective 7/1/04	(a) In representing a client, a lawyer shall not: (1) use means that have no substantial purpose other than to embarrass, delay, or burden a third person, including conduct intended to appeal to or engender bias against a person on account of that person's gender, race, religion, national origin, or sexual preference, whether that bias is directed to other counsel, court personnel, witnesses, parties, jurors, judges, judicial officers, or any other participants (2) use methods of obtaining evidence that violate the legal rights of such a person; (3) present or participate in presenting criminal charges solely to obtain advantage in a civil matter; or (4) threaten to present criminal charges in order to obtain advantage in civil matter
IL Effective 1/1/2010	(b) Deletes "or reasonably should know."
IN Effective 1/1/05	Same as MR
IA Effective	Same as MR

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7/1/05	
KS Effective 7/1/07	Same as MR
KY Effective 7/15/09	(b) Replaces language after “sent shall” with: <i>(1) refrain from reading the document, (2) promptly notify the sender, and (3) abide by the instructions of the sender regarding its disposition.</i>
LA Effective 3/1/04	(b) differs from MR: "A lawyer who receives a writing that, on its face, appears to be subject to the attorney-client privilege or otherwise confidential, under circumstances where it is clear that the writing was not intended for the receiving lawyer, shall refrain from examining the writing, promptly notify the sending lawyer, and return the writing."
ME Effective 8/1/09	Replaces (b) with: <i>(b) A lawyer who receives a writing and has reasonable cause to believe the writing may have been inadvertently disclosed and contain confidential information or be subject to a claim of privilege or of protection as trial preparation material. (1) shall not read the writing or, if he or she has begun to do so, shall stop reading the writing; (2) shall notify the sender of the receipt of the writing; and (3) shall promptly return, destroy or sequester the specified information and any copies. The recipient may not use or disclose the information in the writing until the claim is resolved, formally or informally. The sending or receiving lawyer may promptly present the writing to a tribunal under seal for a determination of the claim.</i>
MD Effective 7/1/05	(a): adds “the lawyer knows” before “violate” (b) differs from MR: In communicating with third persons, a lawyer representing a client in a matter shall not seek information relating to the matter that the lawyer knows or reasonably should know is protected from disclosure by statute or by an established evidentiary privilege, unless the protection has been waived. The lawyer who receives information that is protected from disclosure shall (1) terminate the communication immediately and (2) give notice of the disclosure to any tribunal in which the matter is pending and to the person entitled to enforce the protection against disclosure.
MA Rules effective 9/1/08	Does not adopt (b).
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 MR (b)
New	

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Proposed 11/24/09	Same as 1988 Rule.
MN Effective 10/1/05	Same as MR
MS Effective 11/3/05	Same as MR
MO Effective 7/1/07	Same as MR
MT Effective 4/1/04	(b): refers to “a writing” rather than “a document,” since writing is defined in 1.0 to include documents, faxes and email. Does not include “relating to the representation of the lawyer’s client”
NE Effective 9/1/05	Same as MR
NV Effective 5/1/06	Same as MR
NH Effective 1/1/08	Replaces language with : <i>(a) In representing a client, a lawyer shall not take any action if the lawyer knows or it is obvious that the action has the primary purpose to embarrass, delay or burden a third person.</i> <i>(b) A lawyer who receives materials relating to the representation of the lawyer’s client and knows that the material was inadvertently sent shall promptly notify the sender and shall not examine the materials. The receiving lawyer shall abide by the sender’s instructions or seek determination by a tribunal.</i>
NJ Effective 1/1/04	(b): “A lawyer who receives a document and has reasonable cause to believe that the document was inadvertently sent shall not read the document if he or she has not begun to do so or stop reading the document, promptly notify the sender and return the document to the sender.”
NM Effective 11/2/09	Changed to Rule 16-404; (a) Renamed “ A. Prohibited actions; ” (b) Renamed “ B. Inadvertently sent documents. ”
NY Effective 4/1/09	Same as MR
NC Effective 3/1/03	(b): uses the term "writing" rather than "document."; did not add "relating to the representation of the lawyer's client" after “document.”
ND Effective 8/1/06	(b): moved to 4.5(a)
OH	(a): adds “harass” after “embarrass”

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Effective 2/1/07	
OK Effective 1/1/08	Same as MR
OR Effective 12/1/06	Title: adds “; Inadvertently Sent Documents” to end. (a): adds “or the lawyer’s own interests” after “client” and “knowingly” before “use methods.”
PA Effective 7/1/06	Same as MR
RI Effective 4/15/07	Same as MR
SC Effective 10/1/05	Same as MR
SD Effective 1/1/04	(b): adds at the end: “and or sender’s lawyer if sender is represented.”
TN Effective 1/1/11	Text is first clause of MR (a); (1) is similar to MR (a), without the first clause; Adds: <i>(2) threaten to present a criminal charge, or to offer or to agree to refrain from filing such a charge, for the purpose of obtaining an advantage in a civil matter.</i> (b) is similar to MR(b) but changes wording to: <i>(b) A lawyer who receives information relating to the representation of the lawyer’s client that the lawyer knows or reasonably should know is protected by RPC 1.6 (including information protected by the attorney-client privilege or the work-product rule) and has been disclosed to the lawyer inadvertently or by a person not authorized to disclose such information to the lawyer, shall:</i> <i>(1) immediately terminate review or use of the information;</i> <i>(2) notify the person, or the person’s lawyer if communication with the person is prohibited by RPC 4.2, of the inadvertent or unauthorized disclosure; and</i> <i>(3) abide by that person’s or lawyer’s instructions with respect to disposition of written information or refrain from using the written information until obtaining a definitive ruling on the proper disposition from a court with appropriate jurisdiction.</i>
TX* Effective 3/1/05	*Has not amended Rule since the most recent amendments to the ABA Model Rules <i>(b) A lawyer shall not present, participate in presenting, or threaten to present:</i> <i>(1) criminal or disciplinary charges solely to gain an advantage in a civil matter; or</i>

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	<i>(2) civil, criminal or disciplinary charges against a complainant, a witness, or a potential witness in a bar disciplinary proceeding solely to prevent participation by the complainant, witness or potential witness therein.</i>
UT Effective 11/1/05	Same as MR
VT Effective 9/1/09	Same as MR
VA Effective 1/1/04	Same as former MR but deletes “substantial”
WA Effective 9/1/06	Same as MR
WV* Effective 1/1/89	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> Does not have MR (b).
WI Effective 7/1/07	Same as MR
WY Effective 7/1/06	Adds: (c) A lawyer shall not present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter.

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