

**Comparison of Newly Adopted Washington, D.C. Rules of Professional Conduct  
with ABA Model Rules**

	<p>WASHINGTON D.C.</p> <p>Rules as adopted by D.C. Court of Appeals to be effective 8/1/2010. Variations from the Model Rules are noted. Rules only; comment comparison not included.</p>
Preamble	Did not adopt
Scope	<p>[1]: same as MR [14] but in fifth sentence adds “professional” before “discretion” and then ends sentence. In last sentence adds “interpreting the Rules and” after “guidance for” and replaces “the Rules” with “them”</p> <p>[2]: combines first two sentences of MR [15] and all of MR [16]</p> <p>[3]: same as MR [19]</p> <p>[4] Nothing in these Rules, the Comments associated with them, or this Scope section is intended to enlarge or restrict existing law regarding the liability of lawyers to others or the requirements that the testimony of expert witnesses or other modes of proof must be employed in determining the scope of a lawyer’s duty to others. Moreover, nothing in the Rules or associated Comments or this Scope section is intended to confer rights on an adversary of a lawyer to enforce the Rules in a proceeding other than a disciplinary proceeding. Some judicial decisions have considered the standard of conduct established in these Rules in determining the standard of care applicable in a proceeding other than a disciplinary proceeding. A tribunal presented with claims that the conduct of a lawyer appearing before that tribunal requires, for example, disqualification of the lawyer and/or the lawyer’s firm may take such action as seems appropriate in the circumstances, which may or may not involve disqualification.</p> <p>[5] In interpreting these Rules, the specific shall control the general in the sense that any rule that specifically addresses conduct shall control the disposition of matters and the outcome of such matters shall not turn upon the application of a more general rule that arguably also applies to the conduct in question. In a number of instances, there are specific rules that address specific types of conduct. The rule of interpretation expressed here is meant to make it clear that the general rule does not supplant, amend, enlarge, or extend the specific rule. So, for instance, the general terms of Rule 1.3 are not intended to govern conflicts of interest, which are particularly discussed in Rules 1.7, 1.8, and 1.9. Thus, conduct that is proper under the specific conflicts rules is not improper under the more general rule of Rule 1.3. Except where the principle of priority stated here is applicable, however, compliance with one rule does not generally excuse compliance with other rules. Accordingly, once a lawyer has analyzed the ethical considerations under a given rule, the lawyer must generally extend the analysis to ensure compliance with all other applicable rules.</p> <p>[6]: same as MR [21] but deletes “The Preamble and,” adds “and general rules of interpretation” after “orientation” and replaces “authoritative” with</p>

	<p>“controlling”</p>
Rule 1.0	<p>Does not have MR (b)</p> <p>Adds (b) “Consult” or “consultation” denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question.</p> <p>(c): adds “but does not include a government agency or other government entity. <i>See</i> Comment, Rule 1.10.” to end</p> <p>Adds (g) “Law clerk” denotes a person, typically a recent law school graduate, who acts, typically for a limited period, as confidential assistant to a judge or judges of a court; to an administrative law judge or a similar administrative hearing officer; or to the head of a governmental agency or to a member of a governmental commission, either of which has authority to adjudicate or to promulgate rules or regulations of general application.</p> <p>Adds (h) “Matter” means any litigation, administrative proceeding, lobbying activity, application, claim, investigation, arrest, charge or accusation, the drafting of a contract, a negotiation, estate or family relations practice issue, or any other representation, except as expressly limited in a particular rule.</p> <p>(i): same as MR (g) but adds “or professional limited liability company” after “corporation”</p> <p>(j): same as MR (h)</p> <p>Does not have MR (i)</p> <p>(k) – (o): same as MR (j) – (n)</p>
Rule 1.1	<p>(a): same as text of MR</p> <p>Adds (b) A lawyer shall serve a client with skill and care commensurate with that generally afforded to clients by other lawyers in similar matters.</p>
Rule 1.2	<p>Title: same as former MR</p> <p>(a): first and third sentences, same as former MR; second and fourth sentences, same as MR</p> <p>(c): replaces “scope” with “objective,” deletes “the limitation is reasonable under the circumstances and”</p> <p>Adds (d) A government lawyer’s authority and control over decisions concerning the representation may, by statute or regulation, be expanded beyond the limits imposed by paragraphs (a) and (c).</p> <p>(e): same as MR (d)</p> <p>(f): same as former MR (e)</p>
Rule 1.3	<p>Title: adds “and Zeal”</p> <p>Adds (a) A lawyer shall represent a client zealously and diligently within the bounds of the law.</p> <p>(b) A lawyer shall not intentionally:</p> <p>(1) Fail to seek the lawful objectives of a client through reasonably available means permitted by law and the disciplinary rules; or</p> <p>(2) Prejudice or damage a client during the course of the professional relationship.</p> <p>(c): same as MR but deletes “diligence and”</p>
Rule 1.4	<p>(a): same as former MR</p> <p>Adds (c) A lawyer who receives an offer of settlement in a civil case or</p>

	<p>proffered plea bargain in a criminal case shall inform the client promptly of the substance of the communication.</p>
<p>Rule 1.5</p>	<p>(a): same as former MR  (a)(5): deletes “time”  (b): same as former MR but adds “the scope of the lawyer’s representation, and the expenses for which the client will be responsible” before “shall” and deletes “preferably”  (c): same as former MR but adds “and whether the client will be liable for expenses regardless of the outcome of the matter” after “calculated”  (d): combines MR (d) and (d)(2)  Does not have MR (d)(1)  (e)(2) The client is advised, in writing, of the identity of the lawyers who will participate in the representation, of the contemplated division of responsibility, and of the effect of the association of lawyers outside the firm on the fee to be charged;  (e)(3) The client gives informed consent to the arrangement; and  (e)(4): same as MR (e)(3)  Adds (f) Any fee that is prohibited by paragraph (d) above or by law is <i>per se</i> unreasonable.</p>
<p>Rule 1.6</p>	<p>(a) Except when permitted under paragraph (c), (d), or (e), a lawyer shall not knowingly:  (1) reveal a confidence or secret of the lawyer’s client;  (2) use a confidence or secret of the lawyer’s client to the disadvantage of the client;  (3) use a confidence or secret of the lawyer’s client for the advantage of the lawyer or of a third person.  (b) “Confidence” refers to information protected by the attorney-client privilege under applicable law, and “secret” refers to other information gained in the professional relationship that the client has requested be held inviolate, or the disclosure of which would be embarrassing, or would be likely to be detrimental, to the client.  (c) A lawyer may reveal client confidences and secrets, to the extent reasonably necessary:  (1) to prevent a criminal act that the lawyer reasonably believes is likely to result in death or substantial bodily harm absent disclosure of the client’s secrets or confidences by the lawyer; or  (2) to prevent the bribery or intimidation of witnesses, jurors, court officials, or other persons who are involved in proceedings before a tribunal if the lawyer reasonably believes that such acts are likely to result absent disclosure of the client’s confidences or secrets by the lawyer.  (d) When a client has used or is using a lawyer’s services to further a crime or fraud, the lawyer may reveal client confidences and secrets, to the extent reasonably necessary:  (1) to prevent the client from committing the crime or fraud if it is reasonably certain to result in substantial injury to the financial interests or property of another; or</p>

	<p>(2) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of the crime or fraud.</p> <p>(e) A lawyer may use or reveal client confidences or secrets:</p> <p>(1) with the informed consent of the client;</p> <p>(2) (A) when permitted by these Rules or required by law or court order; and (B) if a government lawyer, when permitted or authorized by law;</p> <p>(3) to the extent reasonably necessary to establish a defense to a criminal charge, disciplinary charge, or civil claim, formally instituted against the lawyer, based upon conduct in which the client was involved, or to the extent reasonably necessary to respond to specific allegations by the client concerning the lawyer's representation of the client;</p> <p>(4) when the lawyer has reasonable grounds for believing that a client has impliedly authorized disclosure of a confidence or secret in order to carry out the representation;</p> <p>(5) to the minimum extent necessary in an action instituted by the lawyer to establish or collect the lawyer's fee; or</p> <p>(6) to the extent reasonably necessary to secure legal advice about the lawyer's compliance with law, including these Rules.</p> <p>(f) A lawyer shall exercise reasonable care to prevent the lawyer's employees, associates, and others whose services are utilized by the lawyer from disclosing or using confidences or secrets of a client, except that such persons may reveal information permitted to be disclosed by paragraphs (c), (d), or (e).</p> <p>(g) The lawyer's obligation to preserve the client's confidences and secrets continues after termination of the lawyer's employment.</p> <p>(h) The obligation of a lawyer under paragraph (a) also applies to confidences and secrets learned prior to becoming a lawyer in the course of providing assistance to another lawyer.</p> <p>(i) For purposes of this rule, a lawyer who serves as a member of the D.C. Bar Lawyer Counseling Committee, or as a trained intervenor for that committee, shall be deemed to have a lawyer-client relationship with respect to any lawyer-counselee being counseled under programs conducted by or on behalf of the committee. Information obtained from another lawyer being counseled under the auspices of the committee, or in the course of and associated with such counseling, shall be treated as a confidence or secret within the terms of paragraph (b). Such information may be disclosed only to the extent permitted by this rule.</p> <p>(j) For purposes of this rule, a lawyer who serves as a member of the D.C. Bar Practice Management Service Committee, formerly known as the Lawyer Practice Assistance Committee, or a staff assistant, mentor, monitor or other consultant for that committee, shall be deemed to have a lawyer-client relationship with respect to any lawyer-counselee being counseled under programs conducted by or on behalf of the committee. Communications between the counselor and the lawyer being counseled under the auspices of the committee, or made in the course of and associated with such counseling, shall be treated as a confidence or secret within the terms of paragraph (b).</p>
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	<p>Such information may be disclosed only to the extent permitted by this rule. However, during the period in which the lawyer-counselee is subject to a probationary or monitoring order of the Court of Appeals or the Board on Professional Responsibility in a disciplinary case instituted pursuant to Rule XI of the Rules of the Court of Appeals Governing the Bar, such information shall be subject to disclosure in accordance with the order.</p> <p>(k) The client of the government lawyer is the agency that employs the lawyer unless expressly provided to the contrary by appropriate law, regulation, or order.</p>
<p>Rule 1.7</p>	<p>Title: replaces “Current Clients” with “General”</p> <p>(a) A lawyer shall not advance two or more adverse positions in the same matter.</p> <p>(b) Except as permitted by paragraph (c) below, a lawyer shall not represent a client with respect to a matter if:</p> <p>(1) That matter involves a specific party or parties and a position to be taken by that client in that matter is adverse to a position taken or to be taken by another client in the same matter even though that client is unrepresented or represented by a different lawyer;</p> <p>(2) Such representation will be or is likely to be adversely affected by representation of another client;</p> <p>(3) Representation of another client will be or is likely to be adversely affected by such representation;</p> <p>(4) The lawyer’s professional judgment on behalf of the client will be or reasonably may be adversely affected by the lawyer’s responsibilities to or interests in a third party or the lawyer’s own financial, business, property, or personal interests.</p> <p>(c) A lawyer may represent a client with respect to a matter in the circumstances described in paragraph (b) above if</p> <p>(1) Each potentially affected client provides informed consent to such representation after full disclosure of the existence and nature of the possible conflict and the possible adverse consequences of such representation; and</p> <p>(2) The lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client.</p> <p>(d) If a conflict not reasonably foreseeable at the outset of representation arises under paragraph (b)(1) after the representation commences, and is not waived under paragraph (c), a lawyer need not withdraw from any representation unless the conflict also arises under paragraphs (b)(2), (b)(3), or (b)(4).</p>
<p>Rule 1.8</p>	<p>Title: deletes “Current Clients”</p> <p>(a)(1) – (3): same as former MR Does not have MR (b)</p> <p>(b): first sentence, same as former MR (c) but deletes “as parent, child, sibling, or spouse;” second sentence, same as MR (c)</p> <p>(c): same as MR (d)</p> <p>(d) While representing a client in connection with contemplated or pending litigation or administrative proceedings, a lawyer shall not advance or guarantee financial assistance to the client, except that a lawyer may pay or</p>

	<p>otherwise provide:</p> <p>(1) The expenses of litigation or administrative proceedings, including court costs, expenses of investigation, expenses or medical examination, costs of obtaining and presenting evidence; and</p> <p>(2) Other financial assistance which is reasonably necessary to permit the client to institute or maintain the litigation or administrative proceedings.</p> <p>(e): same as MR (f)</p> <p>(e)(1): same as MR (f)(1) but adds “after consultation” to end</p> <p>(e)(2) and (3): same as MR (f)(2) and (3)</p> <p>(f): same as former MR (g) but replaces “claims of” with “claims for,” replaces “consents after consultation” with “gives informed consent in a writing signed by the client after consultation”</p> <p>(g): same as MR (h)</p> <p>(g)(1): same as MR (h)(1) but ends paragraph after “malpractice”</p> <p>(g)(2): same as MR (h)(2) but replaces “such liability” with “malpractice arising out of the lawyer’s past conduct” and “and is given a reasonable opportunity to seek the advice of independent legal counsel” with “the advice of independent legal counsel and is given a reasonable opportunity to do so”</p> <p>(h): same as former MR (i) but adds “informed” before “consent”</p> <p>(i) A lawyer may acquire and enforce a lien granted by law to secure the lawyer’s fees or expenses, but a lawyer shall not impose a lien upon any part of a client’s files, except upon the lawyer’s own work product, and then only to the extent that the work product has not been paid for. This work product exception shall not apply when the client has become unable to pay, or when withholding the lawyer’s work product would present a significant risk to the client of irreparable harm.</p> <p>Does not have MR (j)</p> <p>(j): same as MR (k) but cross-references paragraphs “(a) through (g) and (i)”</p>
Rule 1.9	<p>Title: same as former MR</p> <p>Rule: same as MR (a) but deletes “confirmed in writing”</p> <p>Does not have MR (b) and (c)</p>
Rule 1.10	<p>Title: same as former MR</p> <p>(a): ends at “unless”</p> <p>(a)(1): same as remainder of MR but adds “of the individual lawyer’s representation” after “prohibition,” deletes “personal” and “prohibited,” replaces “and” after “lawyer” with “described in Rule 1.7(b)(4) and that interest” and replaces “materially” with “adversely”</p> <p>Adds (a)(2) the representation is permitted by Rules 1.11, 1.12, or 1.18.</p> <p>Adds (b) When a lawyer becomes associated with a firm, the firm may not knowingly represent a person in a matter which is the same as, or substantially related to, a matter with respect to which the lawyer had previously represented a client whose interests are materially adverse to that person and about whom the lawyer has in fact acquired information protected by Rule 1.6 that is material to the matter. The firm is not disqualified if the lawyer participated in a previous representation or acquired information under the circumstances covered by Rule 1.6(h) or Rule 1.18.</p>

	<p>(c): Same as MR (b) but adds “who was” after “client” and replaces “and” between “lawyer” and “not” with “during the association and is”</p> <p>(c)(1): same as MR (b)(1)</p> <p>(c)(2): same as MR (b)(2) but deletes “and 1.9(c)”</p> <p>(d): same as MR (c)</p> <p>Does not have MR (d)</p> <p>Adds (e) A lawyer who, while affiliated with a firm, is made available to assist the Office of the Attorney General of the District of Columbia in providing legal services to that agency is not considered to be associated in a firm for purposes of paragraph (a), provided, however, that no such lawyer shall represent the Office of the Attorney General with respect to a matter in which the lawyer’s firm appears on behalf of an adversary.</p>
<p>Rule 1.11</p>	<p>Title: same as former MR but adds “or Other” after “Private”</p> <p>(a) A lawyer shall not accept other employment in connection with a matter which is the same as, or substantially related to, a matter in which the lawyer participated personally and substantially as a public officer or employee. Such participation includes acting on the merits of a matter in a judicial or other adjudicative capacity.</p> <p>(b) If a lawyer is required to decline or to withdraw from employment under paragraph (a) on account of a personal and substantial participation in a matter, no partner or associate of that lawyer, or lawyer with an of counsel relationship to that lawyer, may knowingly accept or continue such employment except as provided in paragraphs (c) and (d) below. The disqualification of such other lawyers does not apply if the sole form of participation was as a judicial law clerk.</p> <p>(c) The prohibition stated in paragraph (b) shall not apply if the personally disqualified lawyer is timely screened from any form of participation in the matter or representation as the case may be, and from sharing in any fees resulting therefrom, and if the requirements of paragraphs (d) and (e) are satisfied.</p> <p>(d) Except as provided in paragraph (e), when any of counsel, lawyer, partner, or associate of a lawyer personally disqualified under paragraph (a) accepts employment in connection with a matter giving rise to the personal disqualification, the following notifications shall be required:</p> <p>(1) The personally disqualified lawyer shall submit to the public department or agency by which the lawyer was formerly employed and serve on each other party to any pertinent proceeding a signed document attesting that during the period of disqualification the personally disqualified lawyer will not participate in any manner in the matter or the representation, will not discuss the matter or the representation with any partner, associate, or of counsel lawyer, and will not share in any fees for the matter or the representation.</p> <p>(2) At least one affiliated lawyer shall submit to the same department or agency and serve on the same parties a signed document attesting that all affiliated lawyers are aware of the requirement that the personally disqualified lawyer be screened from participating in or discussing the matter or the representation and describing the procedures being taken to screen the</p>

	<p>personally disqualified lawyer.</p> <p>(e) If a client requests in writing that the fact and subject matter of a representation subject to paragraph (d) not be disclosed by submitting the signed statements referred to in paragraph (d), such statements shall be prepared concurrently with undertaking the representation and filed with Bar Counsel under seal. If at any time thereafter the fact and subject matter of the representation are disclosed to the public or become a part of the public record, the signed statements previously prepared shall be promptly submitted as required by paragraph (d).</p> <p>(f) Signed documents filed pursuant to paragraph (d) shall be available to the public except to the extent that a lawyer submitting a signed document demonstrates to the satisfaction of the public department or agency upon which such documents are served that public disclosure is inconsistent with Rule 1.6 or other applicable law.</p> <p>(g) This rule applies to any matter involving a specific party or parties.</p> <p>(h) A lawyer who participates in a program of temporary service to the Office of the District of Columbia Attorney General of the kind described in Rule 1.10(e) shall be treated as having served as a public officer or employee for purposes of paragraph (a), and the provisions of paragraphs (b)-(e) shall apply to the lawyer and to lawyers affiliated with the lawyer.</p>
<p>Rule 1.12</p>	<p>Title: Third-Party Neutrals</p> <p>(a): changes cross-reference to paragraph (e), deletes “as a judge or other adjudicative officer or law clerk to such a person or” and replace “informed consent, confirmed in writing” with “their informed consent after disclosure”</p> <p>(b): deletes “as a judge or other adjudicative officer or,” ends paragraph after first sentence</p> <p>Adds (d) If a client requests in writing that the fact and subject matter of a representation subject to paragraph (a) not be disclosed by submitting the signed statements referred to in paragraph (c), such statements shall be prepared concurrently with undertaking the representation and filed with Bar Counsel under seal. If at any time thereafter the fact and subject matter of the representation are disclosed to the public or become a part of the public record, the signed statements previously prepared shall be promptly submitted as required by paragraph (c);</p> <p>(e): same as MR (d).</p>
<p>Rule 1.13</p>	<p>(b): deletes “to the organization” after “obligation” in first sentence</p> <p>Does not have MR (c) – (e)</p> <p>(c): same as MR (f) but replaces “the lawyer knows or reasonably should know” with “it is apparent” and “are adverse” with “may be adverse”</p> <p>(d): same as MR (g)</p>
<p>Rule 1.14</p>	<p>(b): replaces “guardian ad litem, conservator or guardian” with “surrogate decision-maker”</p>
<p>Rule 1.15 Effective 8/1/2010</p>	<p>(a): Adds: “<i>of clients or third persons that are in a lawyer’s possession (trust funds)</i>” after “funds” and before “shall”; deletes “a separate account maintained in the state...” to end of paragraph; inserts <i>one or more trust accounts maintained in accordance with paragraph (b). Complete records of</i></p>

*such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation to end.*

*(b): All trust funds shall be deposited with an “approved depository” as that term is defined in Rule XI of the Rules Governing the District of Columbia Bar. Trust funds that are nominal in amount or expected to be held for a short period of time, and as such would not be expected to earn income for a client or third-party in excess of the costs incurred to secure such income, shall be held at an approved depository and in compliance with the District of Columbia’s Interest on Lawyers Trust Account (DC IOLTA) program. The title on each DC IOLTA account shall include the name of the lawyer or law firm that controls the account, as well as “DC IOLTA Account” or “IOLTA Account.” The title on all other trust accounts shall include the name of the lawyer or law firm that controls the account, as well as “Trust Account” or “Escrow Account.” The requirements of this paragraph (b) shall not apply when a lawyer is otherwise compliant with the contrary mandates of a tribunal; or when the lawyer is participating in, and compliant with, the trust accounting rules and the IOLTA program of the jurisdiction in which the lawyer is licensed and principally practices.*

*(c): Deletes MR (c). State Rule (c) similar to MR (d), inserts *subject to Rule 1.6* after “regarding such property” to end.*

*(d): State Rule (d) similar to MR (e), replaces “two or more persons (one of whom may be the lawyer) claim interests” with *interests are claimed by the lawyer and another person, or by two or more persons to each of whom the lawyer may have an obligation*; replaces “the dispute is resolved” with *until there is an accounting and severance of interests in the property* to end. Deletes sentence “The lawyer shall promptly..” to end. Adds: *If a dispute arises concerning the respective interests among persons claiming an interest in such property, the undisputed portion shall be distributed and the portion in dispute shall be kept separate by the lawyer until the dispute is resolved. Any funds in dispute shall be deposited in a separate account meeting the requirements of paragraph (a) and (b).**

*(e) Advances of unearned fees and unincurred costs shall be treated as property of the client pursuant to paragraph (a) until earned or incurred unless the client gives informed consent to a different arrangement. Regardless of whether such consent is provided, Rule 1.16(d) applies to require the return to the client of any unearned portion of advanced legal fees and unincurred costs at the termination of the lawyer’s services in accordance with Rule 1.16(d).*

*(f) Nothing in this rule shall prohibit a lawyer from placing a small amount of the lawyer’s funds into a trust account for the sole purpose of defraying bank*

	<i>charges that may be made against that account.</i>
Rule 1.16	<p>(b): combines MR (b) and (b)(1)                  (b)(1) and (2): same as MR (b)(2) and (3)                  Does not have MR (b)(4)                  (b)(3): same as MR (b)(5)                  (b)(4): same as MR (b)(6) but replaces language after “or” with “vexatious conduct on the part of the client has rendered the representation unreasonably difficult”                  (b)(5) The lawyer believes in good faith, in a proceeding before a tribunal, that the tribunal will find the existence of other good cause for withdrawal.                  (d): replaces “Upon” with “In connection with any,” adds “timely” before “steps” and replaces “other law” with “Rule 1.8(i)”</p>
Rule 1.17	<p>(a): chooses “in this jurisdiction” from bracketed choices                  (b) The entire practice is sold to one or more lawyers or law firms or an entire area of practice is sold to one purchaser (either a solo practitioner or a single law firm);                  (c)(2): adds to end “or of any funds or property to which the client is entitled”                  (c)(3): adds “to the purchasing lawyer or law firm” after “transfer” and “of the representation and of any client funds held by the selling lawyer or law firm” after “files”                  Adds following paragraph beginning with “If” Once a client has consented to the transfer to the purchasing lawyer or law firm of the client’s files, funds and representation or the client fails to take action or otherwise object within ninety (90) days of the notice, then the purchasing lawyer is responsible for the client’s matter(s).</p>
Rule 1.18	<p>(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)</p>
Deletes Rule 1.19 Effective Date 8/1/2010	
Rule 2.1	Identical
Rule 2.2	Identical
Rule 2.3	Identical
Rule 2.4	Identical

Rule 3.1	Replaces “incarceration, may” with “involuntary institutionalization, shall, if the client elects to go to trial or to a contested fact-finding hearing” and replaces language after “require that” with “the government carry its burden of proof”
Rule 3.2	Adds (a) In representing a client, a lawyer shall not delay a proceeding when the lawyer knows or when it is obvious that such action would serve solely to harass or maliciously injure another. (b): same as MR text
Rule 3.3	Title: replaces “Toward the” with “to” (a)(1): adds to end “unless correction would require disclosure of information that is prohibited by Rule 1.6” Adds (a)(2) Counsel or assist a client to engage in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good-faith effort to determine the validity, scope, meaning, or application of the law; (a)(3): same as MR (a)(2) but replaces language after “jurisdiction” with “not disclosed by opposing counsel and known to the lawyer to be dispositive of a question at issue and directly adverse to the position of the client; or” (a)(4): same as MR (a)(3) but adds “except as provided in paragraph (b)” to end of first sentence and deletes second sentence (b) When the witness who intends to give evidence that the lawyer knows to be false is the lawyer’s client and is the accused in a criminal case, the lawyer shall first make a good-faith effort to dissuade the client from presenting the false evidence; if the lawyer is unable to dissuade the client, the lawyer shall seek leave of the tribunal to withdraw. If the lawyer is unable to dissuade the client or to withdraw without seriously harming the client, the lawyer may put the client on the stand to testify in a narrative fashion, but the lawyer shall not examine the client in such manner as to elicit testimony which the lawyer knows to be false, and shall not argue the probative value of the client’s testimony in closing argument. (c): ends paragraph after “proceeding” Does not have MR (d) (d) A lawyer who receives information clearly establishing that a fraud has been perpetrated upon the tribunal shall promptly take reasonable remedial measures, including disclosure to the tribunal to the extent disclosure is permitted by Rule 1.6(d).
Rule 3.4	(a): deletes both instances of “unlawfully,” replaces material after “conceal” with “evidence, or counsel or assist another person to do so, if the lawyer reasonably should know that the evidence is or may be the subject of discovery or subpoena in any pending or imminent proceeding. Unless prohibited by law, a lawyer may receive physical evidence of any kind from the client or from another person. If the evidence received by the lawyer belongs to anyone other than the client, the lawyer shall make a good-faith effort to preserve it and to return it to the owner, subject to Rule 1.6” Adds (g) Peremptorily strike jurors for any reason prohibited by law.

Rule 3.5	(c): adds after “communicate” “either ex parte or with opposing counsel” (d): adds “any proceeding of” after “disrupt” and “including a deposition” to end
Rule 3.6	Same as MR (a) but replaces “who is participating or has participated in the investigation or litigation of a matter” with “engaged in a case being tried to a judge or jury,” adds “mass” before “public” and replaces materials after “will” with “create a serious and imminent threat of material prejudice to the proceeding” Does not have MR (b) – (d)
Rule 3.7	(a): replaces “unless” with “except where” (b): adds “not” after “may” and replaces language after “witness” with “if the other lawyer would be precluded from acting as advocate in the trial by Rule 1.7 or Rule 1.9. The provisions of this paragraph (b) do not apply if the lawyer who is appearing as an advocate is employed by, and appears on behalf of, a government agency”
Rule 3.8	First paragraph: adds “not” to end (a) In exercising discretion to investigate or to prosecute, improperly favor or invidiously discriminate against any person; (b) File in court or maintain a charge that the prosecutor knows is not supported by probable cause; (c) Prosecute to trial a charge that the prosecutor knows is not supported by evidence sufficient to establish a <i>prima facie</i> showing of guilt; (d) Intentionally avoid pursuit of evidence or information because it may damage the prosecution’s case or aid the defense; (e) Intentionally fail to disclose to the defense, upon request and at a time when use by the defense is reasonably feasible, any evidence or information that the prosecutor knows or reasonably should know tends to negate the guilt of the accused or to mitigate the offense, or in connection with sentencing, intentionally fail to disclose to the defense upon request any unprivileged mitigating information known to the prosecutor and not reasonably available to the defense, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal; (f) Except for statements which are necessary to inform the public of the nature and extent of the prosecutor’s action and which serve a legitimate law enforcement purpose, make extrajudicial comments which serve to heighten condemnation of the accused; or (g) In presenting a case to a grand jury, intentionally interfere with the independence of the grand jury, preempt a function of the grand jury, abuse the processes of the grand jury, or fail to bring to the attention of the grand jury material facts tending substantially to negate the existence of probable cause.
Rule 3.9	Replaces “legislative body or administrative agency with “legislative or administrative body” and deletes subparagraphs in cross-reference to 3.3
Rule 4.1	Identical
Rule 4.2	Title: replaces “with” with “Between Lawyer and” (a): same as MR text but replaces “In” with “During the course of,” adds “or

	<p>cause another to communicate” after “communicate,” replaces “the lawyer knows” with “known,” adds “prior” before “consent,” replaces “other lawyer” with “lawyer representing such other person”</p> <p>Adds (b) During the course of representing a client, a lawyer may communicate about the subject of the representation with a nonparty employee of an organization without obtaining the consent of that organization’s lawyer. If the organization is an adverse party, however, prior to communicating with any such nonparty employee, a lawyer must disclose to such employee both the lawyer’s identity and the fact that the lawyer represents a party that is adverse to the employee’s employer.</p> <p>Adds (c) For purposes of this rule, the term “party” or “person” includes any person or organization, including an employee of an organization, who has the authority to bind an organization as to the representation to which the communication relates.</p> <p>(d) This rule does not prohibit communication by a lawyer with government officials who have the authority to redress the grievances of the lawyer’s client, whether or not those grievances or the lawyer’s communications relate to matters that are the subject of the representation, provided that in the event of such communications the disclosures specified in (b) are made to the government official to whom the communication is made.</p>
<p>Rule 4.3</p>	<p>Title: Dealings with Unrepresented Parties</p> <p>(a): MR text up to “shall not”</p> <p>Adds (a)(1) Give advice to the unrepresented person other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interests of the lawyer’s client; or</p> <p>(a)(2): remainder of language from first MR sentence but adds “to unrepresented persons whose interests are not in conflict with the interests of the lawyer’s client” after “imply”</p> <p>(b): MR second sentence</p> <p>Does not have remainder of MR</p>
<p>Rule 4.4</p>	<p>(a): adds “knowingly” before “use methods”</p> <p>(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.</p>
<p>Rule 5.1</p>	<p>(a): adds “or government agency” before “shall” and “or agency” before “conform”</p> <p>(c): moves “has direct supervisory authority over the other lawyer or” to after “The lawyer,” adds “or government agency” after “firm” and “or reasonably should know” after “knows”</p>
<p>Rule 5.2</p>	<p>Title: deletes “Responsibilities of a” and changes “Lawyer” to “Lawyers”</p>
<p>Rule 5.3</p>	<p>(a): replaces “and” after “partner” with “or,” adds “or government agency” after “firm”</p> <p>(c)(2): moves “has direct supervisory authority over the person” to after “The</p>

	lawyer,” replaces “has comparable” with “a lawyer who individually or together with other lawyers possess comparable,” adds “or government agency” after “firm”
Rule 5.4	<p>(a)(2): adds to beginning “A lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer.”</p> <p>Adds (a)(4) Sharing of fees is permitted in a partnership or other form of organization which meets the requirements of paragraph (b); and</p> <p>(a)(5): same as MR (a)(4) but deletes “court-awarded,” adds “whether awarded by a tribunal or received in settlement of a matter” after “fees” and “and that qualifies under Section 501(c)(3) of the Internal Revenue Code” to end</p> <p>(b) A lawyer may practice law in a partnership or other form of organization in which a financial interest is held or managerial authority is exercised by an individual nonlawyer who performs professional services which assist the organization in providing legal services to clients, but only if:</p> <p>(1) The partnership or organization has as its sole purpose providing legal services to clients;</p> <p>(2) All persons having such managerial authority or holding a financial interest undertake to abide by these Rules of Professional Conduct;</p> <p>(3) The lawyers who have a financial interest or managerial authority in the partnership or organization undertake to be responsible for the nonlawyer participants to the same extent as if nonlawyer participants were lawyers under Rule 5.1;</p> <p>(4) The foregoing conditions are set forth in writing.</p> <p>(d): does not have</p>
Rule 5.5	Has former MR
Rule 5.6	(b): replaces “client controversy” with “controversy between parties”
Rule 5.7	Identical
Rule 6.1	<p>Title: deletes “Voluntary”</p> <p>A lawyer should participate in serving those persons, or groups of persons, who are unable to pay all or a portion of reasonable attorney’s fees or who are otherwise unable to obtain counsel. A lawyer may discharge this responsibility by providing professional services at no fee, or at a substantially reduced fee, to persons and groups who are unable to afford or obtain counsel, or by active participation in the work of organizations that provide legal services to them. When personal representation is not feasible, a lawyer may discharge this responsibility by providing financial support for organizations that provide legal representation to those unable to obtain counsel.</p>
Rule 6.2	(b): adds “substantial and” before “unreasonable”
Rule 6.3	Identical
Rule 6.4	<p>Adds (a) A lawyer should assist in improving the administration of justice. A lawyer may discharge this requirement by rendering services in activities for improving the law, the legal system, or the legal profession.</p> <p>(b): same as MR text</p>

Rule 6.5	(a)(1) and (2): cross-reference is to 1.9
Rule 7.1	<p>(a): same as MR up to “if it” in second sentence  (a)(1): contains rest of MR  Adds rest of material:  (2) Contains an assertion about the lawyer or the lawyer’s services that cannot be substantiated.  (b)(1) A lawyer shall not seek by in-person contact, employment (or employment of a partner or associate) by a nonlawyer who has not sought the lawyer’s advice regarding employment of a lawyer, if:  (A) The solicitation involves use of a statement or claim that is false or misleading, within the meaning of paragraph (a);  (B) The solicitation involves the use of coercion, duress or harassment; or  (C) The potential client is apparently in a physical or mental condition which would make it unlikely that the potential client could exercise reasonable, considered judgment as to the selection of a lawyer.  (2) A lawyer shall not give anything of value to a person (other than the lawyer’s partner or employee) for recommending the lawyer’s services through in-person contact.  (c) A lawyer shall not knowingly assist an organization that furnishes or pays for legal services to others to promote the use of the lawyer’s services or those of the lawyer’s partner or associate, or any other lawyer affiliated with the lawyer or the lawyer’s firm, as a private practitioner, if the promotional activity involves the use of coercion, duress, compulsion, intimidation, threats, or vexatious or harassing conduct.  (d) No lawyer or any person acting on behalf of a lawyer shall solicit or invite or seek to solicit any person for purposes of representing that person for a fee paid by or on behalf of a client or under the Criminal Justice Act, D.C. Code Ann. §11-2601 (2001) <i>et seq.</i>, in any present or future case in the District of Columbia Courthouse, on the sidewalks on the north, south, and west sides of the courthouse, or within 50 feet of the building on the east side. (e) Any lawyer or person acting on behalf of a lawyer who solicits or invites or seeks to solicit any person incarcerated at the District of Columbia Jail, the Correctional Treatment Facility or any District of Columbia juvenile detention facility for the purpose of representing that person for a fee paid by or on behalf of that person or under the Criminal Justice Act, D.C. Code Ann. §11-2601 (2001) <i>et seq.</i>, in any then-pending criminal case in which that person is represented, must provide timely and adequate notice to the person’s then-current lawyer prior to accepting any fee from or on behalf of the incarcerated person.</p>
Rule 7.2	Did not adopt
Rule 7.3	Did not adopt
Rule 7.4	Did not adopt
Rule 7.5	Identical
Rule 7.6	Did not adopt

Rule 8.1	(a): deletes “material” (b): replaces “person” with “lawyer or applicant”
Rule 8.2	Did not adopt
Rule 8.3	(c): replaces material after “1.6” with “or other law”
Rule 8.4	(d): replaces “is prejudicial to” with “seriously interferes with” (e): has former MR Adds (g) Seek or threaten to seek criminal charges or disciplinary charges solely to obtain an advantage in a civil matter.
Rule 8.5	Has former MR (b)(1): replaces “proceeding in a court before which a lawyer has been admitted to practice (either generally or for purposes of that proceeding)” with “matter pending before a tribunal” and both instances of “court” in the remainder of the paragraph with “tribunal”
Adds 9.1	Nondiscrimination A lawyer shall not discriminate against any individual in conditions of employment because of the individual’s race, color, religion, national origin, sex, age, marital status, sexual orientation, family responsibility, or physical handicap.

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