

ATTACHMENT 2 (ADA Version)

Standards for Attorney Sanctions for Professional Misconduct

Changes in RED are changes recommended by the Task Force.

Changes in PURPLE are changes recommended by the Chairs upon consideration of public comment.

PART A. STANDARDS IN GENERAL

1.1 PURPOSES AND SCOPE OF STANDARDS

The Standards For Attorney Sanctions For Professional Misconduct (the “Standards”) are adopted by the Board of Trustees to set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances. The Standards help fulfill the primary purposes of discipline, which include:

- (a) protection of the public, the courts and the legal profession; [task force delete begins]¹[task force delete ends]
- (b) maintenance of the highest professional standards; and
- (c) preservation of public confidence in the legal profession.

Rehabilitation can also be an objective in determining the appropriate sanction in a particular case, so long as it is consistent with the primary purposes of discipline.

The Standards are based on the State Bar Act [chairs’ insert begins], the published [chairs’ insert ends] [chairs’ delete begins] decisions [chairs’ delete ends] [chairs’ insert begins] opinions of the Review Department of the State Bar Court, [chairs’ insert ends] and the longstanding decisions of the California Supreme Court, which maintains inherent and plenary authority over the practice of law in California. [task force delete begins]²-[task force delete ends] Although not binding, the Standards are afforded great weight by the Supreme Court and

[task force delete begins]¹-Business and Professions Code, § 6001.1 [protection of the public is paramount]-[task force delete ends]

²-*In re Attorney Discipline System* (1998) 19 Cal.4th 582; California Rules of Court, rule 9.2; Business and Professions Code, § 6087.

should be followed whenever possible. [task force delete begins]³ [task force delete ends] The Supreme Court will accept a disciplinary recommendation that is consistent with the Standards unless it has grave doubts about the propriety of the recommended sanction. [task force delete begins]⁴-[task force delete ends] If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure. [task force delete begins]⁵-[task force delete ends]

The Standards do not apply to: non-disciplinary dispositions such as admonitions and agreements in lieu of discipline; resignations; involuntary inactive enrollments; interim suspensions after conviction of a crime; or suspensions for nonpayment of State Bar fees, failure to comply with child support orders, or tax delinquencies. [task force delete begins]⁶ [task force delete ends]

Eff. January 1, 1986. Revised: January 1, 2007; January 1, 2014.

1.2 DEFINITIONS

- (a) “Member” is a member of the State Bar of California. [task force delete begins]⁷-[task force delete ends]
- (b) “Disbarment” is termination from the practice of law and from holding oneself out as entitled to practice law. Membership in the State Bar ceases and the member’s name is stricken from the roll of attorneys. [task force delete begins]⁸ [task force delete ends]
- (c) “Suspension” can include a period of actual suspension, stayed suspension, or both:

³-*In re Silvertown* (2005) 36 Cal.4th 81, 92. [task force delete begins]

[task force delete begins]⁴-*Hipolito v. State Bar* (1989) 48 Cal.3d 621, 630; *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1366.

⁵-*In re Silvertown* (2005) 36 Cal.4th 81; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5; *In re Brown* (1995) 12 Cal.4th 205, 220.

⁶-California Rules of Court, rules 9.21, 9.22, and 9.31(d); Business and Professions Code, §§ 494.5, 6007, 6070(a), 6102(a), 6143, 6143.5, and 6203(d).

⁷-Business and Professions Code, § 6002.

⁸-Business and Professions Code, § 6117 [member precluded from practicing law while disbarred or suspended].- [task force delete ends]

- (1) “Actual suspension” is a disqualification from the practice of law and from holding oneself out as entitled to practice law, subject to ~~[task force delete begins]conditions[task force delete begins] [task force insert begins]probation and attached conditions[task force insert ends]~~. Actual suspension is generally for a period of thirty days, sixty days, ninety days, six months, one year, eighteen months, two years, ~~[task force delete begins] or [task force delete ends]~~ three years ~~[task force insert begins], or until specific conditions are met [task force insert ends]~~. Actual suspension for two years or more requires proof, satisfactory to the State Bar Court, of rehabilitation, fitness to practice, and present learning and ability in the general law before a member may be relieved of the actual suspension. ~~[task force delete begins]⁹[task force delete ends]~~ The State Bar Court can require this showing in other appropriate cases as well.
- (2) “Stayed suspension” is a stay of all or part of a suspension. Stayed suspension is generally for a period of at least one year. A suspension can be stayed only if it is consistent with the primary purposes of discipline.

~~([task force delete begins]d[task force delete ends] [task force insert begins] d [task force insert ends])~~ “[task force insert begins] Public [task force insert ends] Reproval” is a ~~[task force insert begins] public [task force insert ends] censure or reprimand. [task force delete begins].—It can be either public or private, and it may include conditions.—¹⁰[task force delete ends] [task force insert begins]~~ A public reproval may include conditions.

(e) “Private Reproval” is a censure or reprimand that is not a matter of public record unless imposed after the initiation of formal disciplinary proceedings. A private reproval may include conditions.

(f) “Interim Remedies” are temporary restrictions imposed by the State Bar Court on a member’s ability to practice law. They are imposed in order to protect the public, the courts, and the legal profession until such time as the issues can be resolved through formal proceedings. [task force insert ends]

~~([task force delete begins]e [task force delete ends] [task force insert begins] g [task force insert ends])~~ “Prior record of discipline” is a previous imposition or recommendation of discipline. It includes all charges, stipulations, findings and decisions (final or not) reflecting or

~~[task force delete begins]⁹Rules of Procedure of the State Bar of California, rules 5.400–5.411.~~

~~¹⁰California Rules of Court, rule 9.19; Rules of Procedure of the State Bar of California, rules 5.127 and 5.128.~~

recommending discipline, including from another jurisdiction. [task force delete begins]⁴¹ [task force delete ends] It can be discipline imposed for a violation of a term of probation or a violation of a Supreme Court order requiring compliance with rule 9.20 of the California Rules of Court.

([task force delete begins] f [task force delete ends] [task force insert begins] h [task force insert ends]) “Aggravating circumstances” are factors surrounding a member’s misconduct that demonstrate that the primary purposes of discipline warrant a greater sanction than what is otherwise specified in a given Standard.

([task force delete begins] g [task force delete ends] [task force insert begins] i [task force insert ends]) “Mitigating circumstances” are factors surrounding a member’s misconduct that demonstrate that the primary purposes of discipline warrant a more lenient sanction than what is otherwise specified in a given Standard.

[task force insert begins] (j) “Probation” is a period of time under which a member is subject to State Bar supervision. Probation may include conditions that further the primary purposes of discipline. [task force insert ends]

([task force delete begins] h [task force delete ends] [task force insert begins] k [task force insert ends]) “Conditions” are terms [task force insert begins] that a member must comply with as part of a disciplinary sanction. [task force insert ends] [task force delete begins] ~~that may attach to a reprobation⁴² or probation.~~ [task force delete ends] They relate to [task force delete begins] ~~the~~ [task force delete ends] [task force insert begins] a [task force insert ends] member’s misconduct and the facts and circumstances surrounding the misconduct and serve the primary purposes of discipline.

Eff. January 1, 1986. Revised: January 1, 2007; January 1, 2014.

1.3 DEGREES OF SANCTIONS [task force delete begins]⁴³ [task force delete ends]

Subject to these Standards and the laws and rules governing the conduct of disciplinary proceedings, the following sanctions [task force delete begins] ~~are~~

⁴¹ ~~Business and Professions Code, § 6049.1; Rules of Procedure of the State Bar of California, rule 5.106.~~ [task force delete ends]

[task force delete begins]⁴² ~~California Rules of Court, rule 9.19; Business and Professions Code, § 6093~~

⁴³ ~~California Rules of Court, rule 9.19.~~ [task force delete ends]

~~available~~[task force delete ends] [task force insert begins] may be imposed [task force insert ends] upon a finding of misconduct:

- (a) disbarment;
- (b) actual suspension;
- (c) stayed suspension;
- (d) [task force insert begins] public [task force insert ends] reproof [task force insert begins]; [task force insert ends] [task force delete begins], ~~public or private;~~ ~~or~~[task force delete ends]

[task force insert begins] (e) private reproof; or [task force insert ends]

([task force delete begins] e [task force delete ends] [task force insert begins] f [task force insert ends]) any interim remedies or other final discipline authorized by [task force insert begins] the [task force insert ends] Business and Professions Code [task force delete begins] ~~section 6007(h)~~ [task force delete ends].

Eff. January 1, 1986. Revised: January 1, 2014.

1.4 CONDITIONS ATTACHED TO SANCTIONS

Conditions attached to a reproof or probation may require a member to:

- (a) make specific restitution or file a satisfaction of judgment;
- (b) take and pass a professional responsibility examination;
- (c) undergo treatment, at the member's expense, for medical, psychological, or psychiatric conditions or for problems related to alcohol or substance abuse;
- (d) complete, at the member's expense, educational or rehabilitative work regarding substantive law, ethics, or law office management;
- (e) complete probation, subject to reporting requirements[task force delete begins] ~~and supervision by a probation monitor~~[task force delete ends];
- (f) give notice to affected parties, including clients, co-counsel, opposing counsel, courts or other tribunals [task force insert begins]; [task force insert ends] or

- (g) comply with any other conditions consistent with the primary purposes of discipline.

Eff. January 1, 1986. Revised: January 1, 2014.

1.5 AGGRAVATING CIRCUMSTANCES

The State Bar must establish aggravating circumstances by clear and convincing evidence. Aggravating circumstances may include:

- (a) a prior record of discipline;
- (b) multiple acts of wrongdoing;
- (c) a pattern of misconduct;
- (d) intentional misconduct, bad faith [task force delete begins], [task force delete ends] [task force insert begins] or [task force insert ends] dishonesty [task force insert begins] ; [task force insert ends] [task force delete begins], concealment, overreaching, or other uncharged violations of the Business and Professions Code or the Rules of Professional Conduct; [task force delete ends]

[task force insert begins] (e) misrepresentation;

(f) concealment;

(g) overreaching;

(h) uncharged violations of the Business and Professions Code or the Rules of Professional Conduct; [task force insert ends]

([task force delete begins] e [task force delete ends] [task force insert begins] i [task force insert ends]) refusal or inability to account for entrusted funds or property;

([task force delete begins] f [task force delete ends] [task force insert begins] j [task force insert ends]) significant harm to the client, the public, or the administration of justice;

([task force delete begins] g [task force delete ends] [task force insert begins] k [task force insert ends]) indifference toward rectification or atonement for the consequences of the misconduct;

([task force delete begins] h [task force delete ends] [task force insert begins] i [task force insert ends]) lack of candor and cooperation to [task force insert begins] the [task force insert ends] victims of the misconduct or [task force insert begins] to [task force delete ends] the State Bar during disciplinary investigation [task force insert begins] s [task force insert ends] or proceedings; [task force delete begins]-or[task force delete ends]

([task force delete begins] k [task force delete ends] [task force insert begins] m [task force insert ends]) failure to make restitution [task force delete begins]- [task force delete ends] [task force insert begins]; or

(n) high level of vulnerability of the victim. [task force insert ends]

Eff. January 1, 1986. Revised: January 1, 2007; January 1, 2014.

1.6 MITIGATING CIRCUMSTANCES

A member must establish mitigating circumstances by clear and convincing evidence. Mitigating circumstances may include:

- (a) absence of any prior record of discipline over many years of practice coupled with present misconduct, which is [task force delete begins] not deemed serious [task force delete ends] [chairs' delete begins]aberrational and[chairs' delete ends] [task force insert begins] not likely to recur [task force insert ends];
- (b) good faith belief that is honestly held and [chairs' insert begins] objectively [chairs' insert ends] reasonable;
- (c) lack of harm to the client, the public, or the administration of justice;
- (d) extreme emotional difficulties or physical or mental disabilities suffered by the member at the time of the misconduct and established by expert testimony as directly responsible for the misconduct, provided that such difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the member established by clear and convincing evidence that the difficulties or disabilities no longer pose a risk that the member will commit misconduct;
- (e) spontaneous candor and cooperation displayed to the victims of the misconduct or to the State Bar;
- (f) extraordinary good character attested to by a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct;

- (g) prompt objective steps, demonstrating spontaneous remorse and recognition of the wrongdoing and timely atonement;
- (h) remoteness in time of the misconduct and subsequent rehabilitation;
- (i) excessive delay by the State Bar in conducting disciplinary proceedings causing prejudice to the member; or
- (j) restitution was made without the threat or force of administrative, disciplinary, civil or criminal proceedings.

Eff. January 1, 1986. Revised: January 1, 2014.

1.7 DETERMINATION OF APPROPRIATE SANCTIONS

- (a) If a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.
- (b) If aggravating circumstances are found, they should be considered alone and in balance with any mitigating circumstances, and if the net effect demonstrates that a greater sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a greater sanction than what is otherwise specified in a given Standard. On balance, a greater sanction is appropriate in cases where there is serious harm to the client, the public, the legal system, or the profession and where the record demonstrates that the member is unwilling or unable to conform to ethical responsibilities.
- (c) If mitigating circumstances are found, they should be considered alone and in balance with any aggravating circumstances, and if the net effect demonstrates that a lesser sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a lesser sanction than what is otherwise specified in a given Standard. On balance, a lesser sanction is appropriate in cases of minor misconduct, where there is little or no injury to a client, the public, the legal system, or the profession and where the record demonstrates that the member is willing and has the ability to conform to ethical responsibilities in the future.

Eff. January 1, 1986. Revised: January 1, 2014.

1.8 EFFECT OF PRIOR DISCIPLINE

- (a) If a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.
- (b) If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:
 - 1. Actual suspension was ordered in any one of the prior disciplinary matters;
 - 2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or
 - 3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.
- (c) Sanctions may be imposed, including disbarment, even if a member has no prior record of discipline.

Eff. January 1, 2014.

PART B. SANCTIONS FOR SPECIFIC MISCONDUCT [task force delete begins]¹⁴ [task force delete ends] [task force insert begins]¹[task force insert ends]

[task force insert begins]The presumed sanction for any specific act of misconduct is a starting point for the imposition of discipline, but can be adjusted up or down depending on the application of mitigating and aggravating circumstances set forth in Standards 1.5 and 1.6, and the balancing of these circumstances as described in Standard 1.7(b) and (c). For any specific act of misconduct not listed in Part B, please refer to Standards 2.18 and 2.19. [task force insert ends]

2.1. MISAPPROPRIATION

[task force delete begins]¹⁴~~For purposes of Part B, the term "suspension" includes actual and/or stayed suspension, unless a Standard specifies only actual suspension.~~ [task force delete ends]
[task force insert begins]¹The term "reproval" includes public or private reproval. [task force insert ends]

[task force insert begins] (a) Disbarment is the presumed sanction for intentional or dishonest misappropriation of entrusted funds or property, unless the amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate, in which case actual suspension is appropriate.

(b) Actual suspension is the presumed sanction for misappropriation involving gross negligence.

(c) Suspension or reproof is the presumed sanction for misappropriation that does not involve intentional misconduct or gross negligence. [task force insert ends]

[task force delete begins] (a) ~~Disbarment is appropriate for intentional or dishonest misappropriation of entrusted funds or property, unless the amount misappropriated is insignificantly small or the most compelling mitigating circumstances clearly predominate, in which case actual suspension of one year is appropriate.~~

(b) ~~Disbarment or actual suspension is appropriate for misappropriation involving gross negligence.~~

(c) ~~Suspension or reproof is appropriate for misappropriation that does not involve intentional misconduct or gross negligence.~~ [task force delete ends]

Eff. January 1, 1986. Revised: January 1, 2014.

2.2 COMMINGLING AND OTHER TRUST ACCOUNT VIOLATIONS [task force delete begins]¹⁵ [task force delete ends]

(a) Actual suspension of three months [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for commingling or failure to promptly pay out entrusted funds.

(b) Suspension or reproof [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for any other violation of Rule 4-100.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014.

[task force delete begins]¹⁵ ~~Rules of Professional Conduct, rule 4-100.~~ [task force delete ends]

2.3 ILLEGAL OR UNCONSCIONABLE FEE [task force delete begins]¹⁶ [task force delete ends]

- (a) Actual suspension of at least six months [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] is appropriate [task force delete ends] for entering into an agreement for, charging, or collecting an unconscionable fee for legal services.
- (b) Suspension or reproof [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] is appropriate [task force delete ends] for entering into an agreement for, charging, or collecting an illegal fee for legal services.

Eff. January 1, 1986. Revised: January 1, 2014.

2.4 BUSINESS TRANSACTIONS, PECUNIARY INTERESTS ADVERSE TO A CLIENT [task force delete begins]⁴⁷ [task force delete ends]

Suspension [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] is appropriate [task force delete ends] for improperly entering into a business transaction with a client or knowingly acquiring a pecuniary interest adverse to a client, unless the extent of the misconduct and any harm it caused to the client are minimal, in which case reproof is appropriate. If the transaction or acquisition and its terms are unfair or unreasonable to the client, then disbarment or actual suspension is appropriate.

Eff. January 1, 1986. Revised: January 1, 2014.

[task force insert begins]2.5 REPRESENTATION OF ADVERSE INTERESTS

- (a) Actual suspension is the presumed sanction when a member accepts or continues simultaneous representation of clients with actual adverse interests, where the member: (1) fails to obtain informed written consent of each client, and (2) causes significant harm to any of the clients. [task force insert ends] [chairs' delete begins] Suspension or reproof is the

[task force delete begins]¹⁶ Rules of Professional Conduct, rule 4-200.

⁴⁷ Rules of Professional Conduct, rule 3-300. [task force delete ends]

~~presumed sanction where the misconduct results in minimal or no harm to any of the clients. [chairs' delete ends]~~

[task force insert begins] (b) Actual suspension is the presumed sanction when a member accepts employment that is actually adverse to a client or former client, where the member: (1) fails to obtain informed written consent, (2) breaches the duty to maintain confidential information material to the employment, and (3) causes significant harm to the client or former client. [task force insert ends]-[chairs' delete begins]-~~Suspension or reproof is appropriate where the misconduct results in minimal or no harm to the client or former client. [chairs' delete ends]~~

[task force insert begins]**2.6 BREACH OF CONFIDENTIALITY**

- (a) Suspension is the presumed sanction when a member intentionally reveals client confidences or secrets.
- (b) Reproof is the presumed sanction when a member recklessly or through gross negligence reveals client confidences or secrets. [task force insert ends]

[task force delete begins]**2.5 FAILURE TO PERFORM OR COMMUNICATE**
20

- ~~(a) Disbarment is appropriate for failing to perform legal services with clients, demonstrating a pattern of misconduct.~~
- ~~(b) Actual suspension is appropriate for failing to perform legal services or properly communicate in multiple client matters, not demonstrating a pattern of misconduct.~~
- ~~(c) Reproof is appropriate for failing to perform legal services or properly communicate in a single client matter. [task force delete ends]~~

[task force insert begins] **2.7** [task force insert ends] [task force delete begins]~~5~~[task force delete ends] [task force insert begins]
PERFORMANCE, COMMUNICATION OR WITHDRAWAL VIOLATIONS
[task force insert ends]

- (a) Disbarment is [task force insert begins] the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for performance, communication, or withdrawal violations demonstrating [task force delete begins] ~~a pattern of misconduct~~ [task

²⁰ ~~Business and Professions Code, §§ 6125 and 6126.~~

force delete ends] [chairs' insert begins] habitual disregard of client interests [chairs' insert begins].

- (b) Actual suspension is [task force insert begins] the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for performance, communication, or withdrawal violations in multiple client matters, not demonstrating [task force delete begins] ~~a pattern of misconduct~~ [task force delete ends] [chairs' insert begins] habitual disregard of client interests [chairs' insert ends].
- (c) Suspension or reproof is the presumed sanction [chairs' delete begins] ~~is appropriate~~ [chairs' delete ends] for performance, communication, or withdrawal violations, which are limited in scope or [chairs' delete begins] ~~which occur over an isolated period of~~ [chairs' delete ends] time. The degree of sanction depends on the extent of the misconduct and the degree of harm to the client or clients.

Eff. January 1, 1986. Revised: January 1, 2014.

[task force insert begins] **2.8 FEE-SPLITTING WITH NON-LAWYERS**

Actual suspension is the presumed sanction when a member shares legal fees with a non-lawyer. The degree of sanction depends upon the extent to which the misconduct interfered with an attorney-client relationship and the extent to which the member failed to perform legal services for which he or she was employed.

2.9 FRIVOLOUS LITIGATION

- (a) Actual suspension is the presumed sanction when a member counsels or maintains a frivolous claim or action for an improper purpose, resulting in significant harm to an individual or the administration of justice. Disbarment is appropriate if the misconduct demonstrates a pattern.
- (b) Suspension or reproof is the presumed sanction when a member counsels or maintains a frivolous claim or action for an improper purpose, resulting in harm to an individual or the administration of justice. [task force insert ends]

2. [task force delete begins] ~~6~~ [task force delete ends] [task force insert begins] **10** [task force insert ends] **UNAUTHORIZED PRACTICE OF LAW** [task force delete begins] ⁴⁸ [task force delete ends]

[task force delete begins] ⁴⁸ Business and Professions Code, §§ 6125 and 6126. [task force delete ends]

- (a) Disbarment or actual suspension [task force insert begins] is the presumed sanction [task force insert ends] ~~is appropriate~~ [task force delete ends] when a member engages in the practice of law or holds himself or herself out as entitled to practice law when he or she is on actual suspension for disciplinary reasons or involuntary inactive enrollment under Business and Professions Code section 6007(b)-(e). The degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law.
- (b) Suspension or reproof [task force insert begins] is the presumed sanction [task force insert ends] ~~is appropriate~~ [task force delete ends] when a member engages in the practice of law or holds himself or herself out as entitled to practice law when he or she is on inactive status or actual suspension for non-disciplinary reasons, such as non-payment of fees or MCLE non-compliance. The degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law.

Eff. January 1, 1986. Revised: January 1, 2014.

2. [task force delete begins]7 [task force delete ends] [task force insert begins]11[task force insert ends] MORAL TURPITUDE, DISHONESTY, FRAUD, CORRUPTION, OR CONCEALMENT [task force delete begins]⁴⁹ [task force delete ends]

Disbarment or actual suspension [task force insert begins] is the presumed sanction [task force insert ends] ~~is appropriate~~ [task force delete ends] for an act of moral turpitude, dishonesty, fraud, corruption [task force insert begins], intentional or grossly negligent misrepresentation, [task force insert ends] or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct [task force insert begins]; [task force insert ends] [task force delete begins] and [task force delete ends] the extent to which the misconduct harmed or misled the victim [task force insert begins], which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct [task force insert ends] [task force delete begins] and [task force delete ends] related to the member's practice of law.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014.

[task force delete begins] ⁴⁹ ~~Business and Professions Code, § 6106.~~ [task force delete ends]

2. [task force delete begins] ~~8~~ [task force delete ends] [task force insert begins] 12 [task force insert ends] **VIOLATION OF OATH OR DUTIES OF AN ATTORNEY** [task force delete begins] ²⁰ [task force delete ends]

- (a) Disbarment or actual suspension [task force insert begins] is the presumed sanction [task force insert ends] [task force ends begins] ~~is appropriate~~ [task force delete ends] for disobedience or violation of a court order related to the member's practice of law, the attorney's oath, or the duties required of an attorney under Business and Professions Code section 6068 [task force insert begins] (a)(b)(d)(e)(f) or (h) [task force insert ends] [task force delete begins] ~~(a)-(h)~~ [task force delete ends].
- (b) Reprimand [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for a violation of the duties required of an attorney under Business and Professions Code section 6068(i),(j),(l) or (o).
- (c) Violations of the duties required of an attorney under Business and Professions Code section 6068(m) or (n) are covered in Standard [task force delete begins] ~~2.5~~ [task force delete ends] [task force insert begins] 2.7 [task force insert ends].

[task force insert begins] (d) Violations of the duties required of an attorney under Business and Professions Code section 6068(c) or (g) are covered in Standard 2.9. [task force insert ends]

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014.

2. [task force delete begins] ~~9~~ [task force delete ends] [task force insert begins] 13 [task force insert ends] **SEXUAL RELATIONS WITH CLIENTS** [task force delete begins] ²⁴ [task force delete ends]

- (a) Disbarment [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] when a member requires or demands sexual relations with a client incident to or as a condition of professional representation or employs coercion, intimidation, or undue influence in entering into sexual relations with a client.
- (b) Suspension or reprimand [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for any other violation of Rule 3-120.

[task force delete begins] ²⁴ ~~Business and Professions Code, § 6106.8; Rules of Professional Conduct, rule 3-120.~~

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014.

2. ~~[task force delete begins]10[task force delete ends] [task force insert begins]14[task force insert ends]~~**VIOLATION OF CONDITIONS ATTACHED TO DISCIPLINE** ~~[task force delete begins] ²² [task force delete ends]~~

Actual suspension ~~[task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] is appropriate [task force delete ends]~~ for failing to comply with a condition of discipline. The degree of sanction depends on the nature of the condition violated and the member's unwillingness or inability to comply with disciplinary orders.

Eff. January 1, 1986. Revised: January 1, 2014.

2. ~~[task force delete begins] 11[task force delete ends] [task force insert begins]15[task force insert ends]~~**CRIMINAL CONVICTIONS INVOLVING MORAL TURPITUDE**

- (a) Summary disbarment ~~[task force insert begins] is the presumed sanction [task force insert begins] [task force delete begins] is appropriate [task force delete ends]~~ for final conviction of a felony in which an element of the offense involves the specific intent to deceive, defraud, steal, or make or suborn a false statement, or ~~[task force delete begins] involved [task force delete ends] [task force insert begins] involves [task force insert ends]~~ moral turpitude. ~~[task force delete begins] ²³ [task force delete ends]~~
- (b) Disbarment ~~[task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] is appropriate [task force delete ends]~~ for final conviction of a felony in which the facts and circumstances surrounding the offense involve moral turpitude, unless the most compelling mitigating circumstance clearly predominate, in which case actual suspension ~~[task force delete begins] ²⁴ [task force delete ends]~~ of at least two years is appropriate.
- (c) Disbarment or actual suspension ~~[task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] is appropriate [task force delete ends]~~ for final conviction of a misdemeanor

²² ~~Business and Professions Code, § 6068(k); Rules of Professional Conduct, rule 1-110.~~ ~~[task force delete ends]~~

~~[task force delete begins] ²³ Business and Professions Code, § 6102(e).~~

²⁴ ~~Business and Professions Code, §§ 6101(a) and 6102 (e).~~

²⁵ ~~Business and Professions Code, § 6101(a).~~ ~~[task force delete ends]~~

involving moral turpitude. [task force delete begins] ²⁵ [task force delete ends]

Eff. January 1, 2014.

2. [task force delete begins] ~~12~~ [task force delete ends] [task force insert begins] 16 [task force insert ends] **CRIMINAL CONVICTIONS NOT INVOLVING MORAL TURPITUDE**

- (a) Actual suspension [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for final conviction of a felony not involving moral turpitude, but involving other misconduct warranting discipline.
- (b) Suspension or reproof [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for final conviction of a misdemeanor not involving moral turpitude but involving other misconduct warranting discipline.

Eff. January 1, 2014.

2. [task force delete begins] ~~13~~ [task force delete ends] [task force insert begins] 17 [task force insert ends] **CRIMINAL CONVICTION FOR SPECIFIC MISDEMEANORS**

- (a) Disbarment [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for final conviction of a misdemeanor specified in Business & Professions Code section 6131, where a public prosecutor aids in the defense of a defendant.
- (b) Disbarment or actual suspension [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for final conviction of a misdemeanor specified in Business and Professions Code sections 6128- [task force delete begins] ~~6130~~ [task force delete ends] [task force insert begins] 6129 [task force insert ends] and 6153 [task force delete begins] ~~6155~~ [task force delete ends].

Eff. January 1, 2014.

2. [task force delete begins]~~14~~[task force delete ends] [task force insert begins]18 [task force insert ends] **VIOLATION OF OTHER ARTICLE 6 STATUTES** [task force delete begins]²⁶ [task force delete ends]

Disbarment or actual suspension [task force insert begins] is the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for any violation of a provision of Article 6 of the Business and Professions Code, not otherwise specified in these Standards.

Eff. January 1, 2014.

2. [task force delete begins] ~~15~~[task force delete ends] [task force insert begins]19[task force insert ends] **VIOLATION OF RULES IN GENERAL** [task force delete begins]²⁷ [task force delete ends]

Suspension not to exceed three years or reproof [task force insert begins]is the presumed sanction [task force insert ends] [task force delete begins] ~~is appropriate~~ [task force delete ends] for a violation of a provision of the [task force delete begins] ~~Business and Professions Code or the~~ [task force delete ends] Rules of Professional Conduct not specified in these Standards.

Eff. January 1, 2014.

[task force delete begins] ²⁶~~Business and Professions Code, §§ 6100, et seq.~~ [task force delete ends]

[task force delete begins] ²⁷~~Business and Professions Code, §6077.~~ [task force delete ends]