

Ateneo de Manila University
BASIC LEGAL AND JUDICIAL ETHICS 2A
1st Semester, A.Y. 2025-2026
Post-midterms

2004 Rules on Notarial Practice

- Notarization transforms a private document into a public one, thus making it admissible in evidence without further proof of its authenticity. It is entitled to full faith and credit upon its face.
 - A notary public should not notarize a document unless the person who signed it are the very same ones who executed it and who personally appeared before the said notary public to attest to the contents and truth of what are stated therein (*De Jesus v. Sanchez-Malit*).
- During notarization, the notary public shall certify that he knows the person acknowledging the instrument and that such person is the same person who executed the instrument, acknowledging that the instrument is his free act and deed.
 - Hence, a defective notarization renders the donation of an immovable property invalid since the requirement that such deed of donation must appear in a public instrument is absent (*Patenia-Kinatac-an v. Patenia-Decena*).

Notarial register

- It refers to a permanently bound book with numbered pages containing a chronological record of notarial acts performed by a notary public.
- A notarial commission (the authority granted by the court to a lawyer) is personal to each lawyer, the notary public must personally administer the notarial acts that the law authorizes him to execute.
 - A notary public must only have one notarial register at any given time.
- Entries in a notarial register need to be in chronological sequence to address and prevent the rampant practice of leaving blank spaces in the notarial register to allow the *antedating* of notarizations (*Gimeno v. Zaide*).
- A notarial register is *prima facie* evidence of the facts there stated. It has the presumption of regularity and to contradict that presumption, clear and convincing evidence must be adduced.
 - Thus, the court disciplined a lawyer for negligently failing to enter the details of three documents on the notarial register (*Pitogo v. Suello*).

Personal appearance of the affiant

- A person shall not perform a perform a notarial act if the person involved as signatory to the instrument or document is not in the notary's presence personally at the time of the notarization and is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity as defined by the notarial rules.
 - The presence of the parties to the deed is necessary to enable the notary public to verify the genuineness of the signature of the affiant (*Bakidol v. Bilog*).
- Notaries public, therefore, should not authenticate documents unless the persons who signed thereon are the very same persons who executed and personally appeared before them to attest to the contents and truth of what are stated therein.
 - Thus, the court disciplined a lawyer who notarized a document purportedly signed by a dead person, because he did not require the affiant's personal appearance (*Zaballero v. Montalvan*).
 - So, too, a lawyer who notarized documents signed by persons abroad (*Sps. Enriquez v. Lasam*).

- A notary public is prohibited from notarizing a document if the persons involved as signatories thereto are:
 - Not present at the time of notarization; and/or
 - Not personally known to or otherwise identified by the notary public through competent evidence of their identities (*Id.*).

Competent evidence of identity

- It refers to the identification of an individual based on:
 - At least *one* ID issued by an official agency bearing the photograph and signature of the individual¹
 - The oath or affirmation of *one credible witness* not privy to the instrument who is personally known to the notary public and who personally knows the individual, or *two credible witnesses* neither of whom is privy to the instrument who each personally knows the individual and shows to the notary public documentary identification.
- A community tax certificate or *cedula* is not competent evidence of identity (*Agaton v. Sugui; Ascano v. Panem*).

Jurisdiction and term

- A person commissioned as notary public may perform notarial acts in any place within the territorial jurisdiction of the commissioning court for a period of two years commencing the first day of January of the year which the commissioning is made.
 - Thus, a notary public who notarized beyond his territorial jurisdiction was disciplined by the court for engaging in unlawful, dishonest, immoral or deceitful conduct (*Almazan v. Suerte-Felipe*).
 - Hence, a notarization done in Dao, Capiz is invalid if the lawyer was only commissioned to notarize in Roxas City, Capiz (*Sps. Frias v. Abao*).
- Generally, the notary public can only perform a notarial act in his regular place of work or business, but on certain exceptional occasions or situations, a notarial act may be performed at the request of the parties in the following sites *within his territorial jurisdiction*:
 - Public offices, convention halls, and similar places where oaths of office may be administered
 - Public function areas in hotels and similar places for the signing of instruments or documents requiring notarization
 - Hospitals and other medical institutions where a party to an instrument or document is confined for treatment
 - Any place where a party to an instrument or document requiring notarization is under detention

Disqualifications

- A notary public is disqualified from performing a notarial act if he:
 - Is a party to the instrument or document to be notarized
 - Will receive as a direct or indirect result, any commission, fee, advantage, right, title, interest, cash property, or other consideration, except as provided by the rules and by the law
 - Is a spouse, common-law partner, ancestor, descendant, or relative by affinity or consanguinity *of the principal* within the fourth civil degree

¹ Including, but not limited to: PRC ID, NBI clearance, police clearance, postal ID, voter's ID, barangay certification, GSIS e-card, SSS card, Philhealth card, senior citizen card, OWWA ID, OFW ID, seaman's book, alien certificate of registration/immigrant certificate of registration, government office ID, certification from the NCWDP (for PWDs), and DSWD certification.

- Hence, notary public may notarize a document if his wife is only a witness—not a principal—to the instrument being notarized (*Relampagos v. Lagunay*).

Canon III: Fidelity

SECTION 3. Lawyer-client relationship. – A lawyer-client relationship is of the highest fiduciary character. As a trust relation, it is essential that the engagement is founded on the confidence reposed by the client on the lawyer. Therefore, a lawyer-client relationship shall arise when the client consciously, voluntarily and in good faith vests a lawyer with the client's confidence for the purpose of rendering legal services such as providing legal advice or representation, and the lawyer, whether expressly or impliedly, agrees to render such services.

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SECTION 6. Fiduciary duty of lawyer. – A lawyer shall be mindful of the trust and confidence reposed by the client.

To this end, a lawyer shall not abuse or exploit the relationship with a client.

Nature and creation of lawyer-client relationship – It's fiduciary!

- A lawyer-client relationship was established from the very first moment complainant asked respondent for legal advice regarding the former's business. To constitute professional employment, it is not essential that the client employed the attorney professionally on any previous occasion. It is not necessary that any retainer be paid, promised, or charged; neither is it material that the attorney consulted did not afterward handle the case for which his service had been sought (*Burbe v. Magulta*).
- Hence, moment a person approached a lawyer to seek legal advice, a veritable lawyer-client privilege evolved between the two, which imposes upon the lawyer certain restrictions mandated by the profession. That includes the confidentiality of the legal consultations. It doesn't matter whether an action was taken after the advice nor no contract was binding the two (*Hadjula v. Madianda*).
- It does not matter that confidential information was *not* exchange between the lawyer and a client.
 - The condition would of necessity call for an investigation of what information the attorney has received and in what way it is or it is not in conflict with his new position.
 - Litigants would in consequence be wary in going to an attorney, lest by an unfortunate turn of the proceeding, if an investigation be held, the court should accept the attorney's inaccurate version of the facts that came to him.
 - Thus, a lawyer may not represent the adversary of his *former client*, even though he merely rendered advice or opinion for the latter (*Hilado v. David*).
- To constitute professional employment, it is not essential that the client should have employed the attorney professionally on any previous occasion. If a person, in respect to his business affairs or troubles of any kind, consults with his attorney in his professional capacity with the view to obtaining professional advice or assistance, and the attorney voluntarily permits or acquiesces in such consultation, then the professional employment must be regarded as established.
 - Thus, there is a lawyer-client relationship between a friend and a lawyer who provided legal advice, prepared demand letters, counter-affidavit, and other court pleadings (*Rosca v. Baccay-Tolentino*).

SECTION 2. The responsible and accountable lawyer. – A lawyer shall uphold the constitution, obey the laws of the land, promote respect for laws and legal processes, safeguard human rights, and at all times advance the honor and integrity of the legal profession.

As an officer of the court, a lawyer shall uphold the rules of law and conscientiously assist in the speedy and efficient administration of justice.

As an advocate, a lawyer shall represent the client with fidelity and zeal within the bounds of the law and the CPRA.

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SECTION 4. Authority of the lawyer to bind client. – A lawyer can bind a client in a legal engagement only when so authorized through a written agreement. The lawyer, however, cannot compromise a client's litigation, or receive anything in discharge of a client's claim, without a special power of attorney for such purpose.

SECTION 5. Authority of lawyer to appear. – A lawyer is presumed to be properly authorized to represent any cause in which he or she appears, and no written power of attorney is required to authorize him or her to appear in court for the client.

The court, tribunal, or other government agency may, on its own initiative or on motion of either party, on just cause, require a lawyer to produce or prove the authority to appear on behalf of the client.

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SECTION 9. Duty to call client to rectify fraudulent act. – A lawyer who receives information that a client has, in the course of the representation, perpetrated a fraud in relation to any subject matter of the representation before a court, tribunal, or other government agency, or against any officer thereof, shall promptly call upon the client to rectify the same. Such fraudulent act on the part of the client shall be a ground for the termination by the lawyer of the engagement.

SECTION 10. Responsibility over a subordinate lawyer, paralegal, or employee. – A lawyer or a law firm shall be responsible for the mistake, negligence, and/or acts or omissions of a subordinate lawyer, paralegal, or employee under the lawyer's direct supervision and control, who is acting within the scope of the assigned tasks, that cause damage or injury which brings dishonor to the profession or violates the rule on confidentiality.

However, such liability of the supervising lawyer does not attach upon proof of exercise of diligence of a good parent of a family in the selection and supervision of subordinate lawyer, paralegal, or employee.

SECTION 11. Responsibility of a supervisory lawyer over a supervised lawyer. – A supervisory lawyer shall co-sign a pleading or other submission to any court, tribunal, or other government agency with a supervised lawyer. A supervisory lawyer shall be responsible for a violation of the CPRA by the supervised lawyer in any of the following instances:

- (a) the supervisory lawyer orders or directs the specific conduct or, with knowledge of the specific conduct, ratifies it; or
- (b) the supervisory lawyer knows of such conduct at a time when it could be prevented or its consequences avoided or mitigated, but fails to take reasonable remedial action; or
- (c) the supervisory lawyer should have known of the conduct so that reasonable remedial action could have been taken at a time when the consequences of the conduct could have been avoided or mitigated.

A supervisory lawyer is a lawyer having direct supervisory authority over another lawyer, including a supervising lawyer under Rule 138-A of the Rules of Court.

Responsibility and accountability

- In Section 2, we see that a lawyer has to:
 - Obey the laws

- Promote respect for laws and legal processes
- Safeguard human rights
- Advance the honor and integrity of the legal profession
- The same provision also gives the responsibilities of a lawyer:
 - *As an officer of the court* – To uphold the rule of law and assist in the speedy and efficient administration of justice.
 - As an advocate – To represent the client with fidelity and zeal within the bounds of the law and CPRA.
- Section 4 lays down the authorities of a lawyer:
 - *To bind client* – There must be a written agreement (but an SPA is required to compromise, or receive anything [e.g., settlement])
 - *To appear on behalf of the client* – This is presumed, and no SPA is required. However, the court may require proof of such authority to appear.
- Following Section 9, a lawyer will be disciplined if he failed to act upon knowing that his client provided fraudulent or falsified evidence in a case he is handling.
 - Instead of inaction, he should have confronted complainant and ask her to rectify her fraudulent representation.
 - If the client refuses, then he should terminate his relationship with her (*Dalisay v. Mauricio*).
- Sections 10 and 11 lay down the rules between a subordinate (including law student practitioner) and supervising lawyer.
 - A lawyer or law firm is responsible for the mistakes, negligence or acts or omissions of a subordinate lawyer, paralegal or employee.
 - Exception: When the supervising lawyer exercised ordinary diligence—he is not liable.
 - A supervising lawyer shall co-sign a pleading, and is responsible for a violation of the CPRA by the *supervised* lawyer if:
 - The supervising lawyer directs specific conduct or ratifies it;
 - The supervising lawyer could've prevented the violation, and had a chance to correct it;
 - The supervising lawyer knows of the conduct and failed to correct it.

SECTION 13. Conflict of interest. – A lawyer shall not represent conflicting interests except by written informed consent of all concerned given after a full disclosure of the facts.

There is conflict of interest when a lawyer represents inconsistent or opposing interests of two or more persons. The test is whether in behalf of one client it is the lawyer's duty to fight for an issue or claim, but which is his or her duty to oppose for the other client.

SECTION 14. Prohibition against conflict-of-interest representation; current clients. – In relation to current clients, the following rules shall be observed:

(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client unless:

- (1) it is shown that the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;
- (2) the client is advised in writing of the desirability of seeking, and is given a reasonable opportunity to seek, the advice of another independent lawyer on the transaction; and
- (3) the client gives written informed consent to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

(b) A lawyer shall not use confidential information relating to representation of a client without the client's written informed consent, except as permitted or required by law or the CPRA.

(c) A lawyer shall not, by undue influence, acquire any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer such gift, directly or indirectly.

(d) Unless with the written informed consent of the client and subject to the application of the sub Judice rule, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A lawyer shall not accept compensation for representing a client from any person other than the client, unless:

- (1) the client gives written informed consent;
- (2) there is no interference with the lawyer's independence or professional judgment or with the lawyer-client relationship; or
- (3) the information relating to representation of a client is protected as required by the rule on privileged communication.

(f) A lawyer, who represents two or more clients in the same case, in case there is a settlement or plea-bargaining, shall disclose to all the clients the existence and nature of all the claims or pleas involved and the participation of each client in the settlement or plea-bargaining.

(g) A lawyer shall avoid testifying in behalf of the client, except:

- (1) on formal matters, such as the mailing, authentication or custody of an instrument, and the like; or
- (2) on substantial matters, in cases where the testimony is essential to the ends of justice, in which event the lawyer must, during the testimony, entrust the trial of the case to another counsel.

SECTION 15. *Conflict of interest of a lawyer hired by a law firm.* – When a lawyer joins a law firm, it shall be the duty of the lawyer to disclose to the law firm, at the earliest possible opportunity, his or her previous clients that may have a potential conflict of interest with the current clients of the law firm. If there is a potential conflict of interest, the lawyer shall not act on the case or cases of the affected current client.

SECTION 16. *Prohibition against dating, romantic, or sexual relations with a client.* – A lawyer shall not have dating, romantic, or sexual relations with a client during the engagement, unless the consensual relationship existed between them before the lawyer-client relationship commenced.

SECTION 17. *Prohibition against conflict-of-interest representation; prospective clients.* – In relation to prospective clients, the following rules shall be observed:

- (a) A lawyer shall, at the earliest opportunity, ascertain the existence of any conflict of interest between a prospective client and current clients, and immediately disclose the same if found to exist.
- (b) In case of an objection by either the prospective or current client, the lawyer shall not accept the new engagement.
- (c) A lawyer shall maintain the private confidences of a prospective client even if no engagement materializes, and shall not use any such information to further his or her own interest, or the interest of any current client.

SECTION 18. *Prohibition against conflict-of-interest representation; former clients.* – In relation to former clients, the following rules shall be observed:

- (a) A lawyer shall maintain the private confidences of a former client even after the termination of the engagement, except upon the written informed consent of the former client, or as otherwise allowed under the CPRA or other applicable laws or regulations, or when the information has become generally known.

- (b) A lawyer shall not use information relating to the former representation, except as the CPRA or applicable laws and regulations would permit or require with respect to a current or prospective client, or when the information has become generally known.
- (c) Unless the former client gives written informed consent, a lawyer who has represented such client in a legal matter shall not thereafter represent a prospective client in the same or related legal matter, where the prospective client's interests are materially adverse to the former client's interests.

SECTION 19. Corporate lawyers; conflict of interest. – In relation to organizational clients, a lawyer who represents a corporation or any organization does not, by virtue of such representation, necessarily represent any constituent or affiliated organization, such as a parent or subsidiary.

A lawyer for a corporation or other organization, who is also a member of its board of directors or trustees, shall determine whether the responsibilities of the two roles may conflict. In the event of the latter, the lawyer shall disclose the conflict of interest to all concerned parties.

SECTION 20. Legal services organization; conflict of interest. – A legal services organization is any private organization, including a legal aid clinic, partnership, association, or corporation, whose primary purpose is to provide free legal services.

A lawyer-client relationship shall arise only between the client and the handling lawyers of the legal services organization. All the lawyers of the legal services organization who participated in the handling of a legal matter shall be covered by the rule on conflict of interest and confidentiality.

SECTION 21. Lawyers in government service; conflict of interest. – A lawyer currently serving in the government shall not practice law privately, unless otherwise authorized by the Constitution, the law or applicable Civil Service rules and regulations. If allowed, private practice shall be upon the express authority of the lawyer's superior, for a stated specified purpose or engagement, and only during an approved leave of absence. However, the lawyer shall not represent an interest adverse to the government.

SECTION 22. Public Attorney's Office; conflict of interest. – The Public Attorney's Office is the primary legal aid service office of the government. In the pursuit of its mandate under its charter, the Public Attorney's Office shall ensure ready access to its services by the marginalized sectors of society in a manner that takes into consideration the avoidance of potential conflict of interest situations which will leave these marginalized parties unassisted by counsel.

A conflict of interest of any of the lawyers of the Public Attorney's Office incident to services rendered for the Office shall be imputed only to the said lawyer and the lawyer's direct supervisor. Such conflict of interest shall not disqualify the rest of the lawyers from the Public Attorney's Office from representing the affected client, upon full disclosure to the latter and written informed consent.

Conflict of interest

- **General rule:** No conflict of interest allowed.
 - **Exception:** The lawyer discloses the conflict and the parties give written consent (**prior informed consent**).
 - A common representation may work to the advantage of said parties since a mutual lawyer, with honest motivations and impartially cognizant of the parties' disparate positions, may well be better situated to work out an acceptable settlement of their differences, being free of partisan inclinations and acting with the cooperation and confidence of said parties (*Dee v. CA*).
- Jurisprudence lays down three separate tests for conflict-of-interest:
 - When, in representation of one client, a lawyer is required to fight for an issue or claim, but is also duty-bound to oppose it for another client

- When the acceptance of the new retainer will require an attorney to perform an act that may injuriously affect the first client or, when called upon in a new relation, to use against the first one any knowledge acquired through their professional connection
- When the acceptance of a new relation would prevent the full discharge of an attorney's duty to give undivided fidelity and loyalty to the client or would invite suspicion of unfaithfulness or double dealing in the performance of that duty
- In any case, the test to determine whether there is conflict of interest in the representation is probability not certainty of conflict.
 - Representation of conflicting interest may only be allowed where the parties gave their written informed consent to the representation, after full disclosure of facts (*Bestoyong v. Magalalit*).
- Nevertheless, the court found no conflict of interest when the spouse of a lawyer bought the land being the subject of litigation of his wife's case. For the court, the relationship of the spouse-buyer with the seller (opposing party of the lawyer) is only buyer-seller, not attorney-client (*Chen v. Dablo-Daral*).
- The rule on conflict-of-interests apply even when the two cases are distinct, such as: representing a plaintiff in a collection case, and, thereafter, being the complainants' counsel in a criminal case filed by the sheriff against the plaintiff. It applies when the lawyers are under the same law firm. (*Gonzales v. Cabucana*).
- When a lawyer is hired by a law firm, the lawyer must disclose any previous clients who may have conflicting interests with the law firm's clientele.
- **Duty not to testify:** A lawyer is not disqualified from being a witness, except only in certain cases pertaining to privileged communication arising from an attorney-client relationship.
 - This general rule includes cases where the testimony of the lawyer is essential to the ends of justice, in which event the lawyer must, during the testimony, entrust the trial of the case to another counsel.
 - This is because it is the duty of a lawyer to assert every remedy and defense that is authorized by law for the benefit of the client, especially in a criminal action in which the latter's life and liberty are at stake (*Santiago v. Rafanan*).

Prospective and prior clients—The Rules

Prior clients	Current clients	Prospective clients
1. To maintain confidentiality of the client, even after termination, except upon the written informed consent, or when allowed by CPRA, or when the information is generally known. 2. To refrain from using information from the former client, unless permitted by the CPRA, or when the information has become generally known. 3. To refrain from representing a prospective client in the	1. To refrain from entering into a business transaction with a client, or knowingly acquiring a pecuniary interest <u>adverse</u> to the client. 2. To refrain from using the confidential information, unless client consents or permitted by law/CPRA. 3. To refrain from acquiring any substantial gift from a client (including those by will; nor will he help draft the will) 4. To refrain from negotiating an	1. To assess at the earliest opportunity if a conflict exists, and disclose if there is such a conflict. <ul style="list-style-type: none"> • In any case, the prospective or former client may object to the engagement. 2. To maintain confidentiality in respect to a prospective client, even if such engagement does not materialize.

<p>same matter relating to the former client, where their interests are materially adverse.</p>	<p>agreement giving him literary or media rights to a portrayal regarding the representation</p> <ol style="list-style-type: none"> 5. To decline compensation for representing a client from any person other than the client unless the client consents 6. To disclose representing multiple clients in the same case of settlement or plea bargaining 7. To avoid testifying in behalf of the client, except on formal matters, or where essential to the ends of justice. 	
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Relationships

- **General rule:** A lawyer shall not have dating, romantic, or sexual relations with the client during the engagement.
 - **Exception:** It's allowed if the relationship existed *prior to the engagement*.

Corporate lawyers

- General rule: A lawyer who represents a corporation does not represent the corporation's affiliated organizations (e.g., a parent or subsidiary).
- It must be noted that a lawyer for a corporation and, at the same time, a director/trustee may give rise to a conflict of interest (i.e., in a derivative suit).
- A lawyer engaged as counsel for a corporation cannot represent members of the same corporation's board of directors in a *derivative suit* brought against them.
 - Hence, the court admonished the legal counsel of a corporation and also served as counsel for the defendant directors (*Hornilla v. Salunat*).
- It is enough that opposing parties in one case are both present clients of the same lawyer and such retainer would affect the performance of the duty of undivided fidelity.
 - This rule applies whether the opposing parties are clients in the same action or in an unrelated action and applies even if there is no occasion to use confidential information against a client (*Quiambao v. Bamba*).
- It applies when the lawyer represents a client against a former client in a controversy that is related, directly or indirectly, to the subject matter of the previous litigation in which he appeared for the former client. This rule applies regardless of the degree of adverse interests (*Mabini Colleges v. Pajarillo*).

Legal services organization²

- A lawyer-client relationship shall only arise between the client and the *handling lawyers*.
 - The conflict does not extend to the entire organization.

² A legal services organization is any private association, including a legal aid clinic, partnership, association, or corporation, whose primary purpose is to provide free legal services (§ 20).

- Still, all lawyers who handled the legal matter are covered by the rule on conflict and confidentiality.

The PAO

- As to the **Public Attorney's Office**: Sec. 22 strikes a balance between access to justice and the need to preserve the fiduciary relationship between the lawyer and the client.
 - The CPRA recognizes that unlike other clients who can seek legal assistance elsewhere should their counsel of choice be unable to represent them due to a conflict of interest, indigent clients, who go to the PAO and legal aid organizations less out of choice than out of necessity, are left with no legal representation if these entities cannot represent them.
 - On the other hand, indigent clients must also be assured of the loyalty and confidentiality characteristic of attorney-client relationships, which are essential to the administration of justice.

SECTION 23. *Amicus curiae*. – A lawyer shall not decline, without just cause, a request by any court, tribunal, or other government agency to act as *amicus curiae* in any proceeding relating to the lawyer's expertise or field of specialization.

SECTION 24. *Active involvement in legal education*. – A lawyer shall keep abreast of legal developments, participate in continuing legal education programs, and support efforts to achieve standards of excellence in law schools as well as in the practical training of law students.

In addition, a lawyer shall assist the Integrated Bar of the Philippines (IBP), law schools, law alumni associations, law associations, or civic organizations, in educating the public on the law and jurisprudence.

The IBP Chapters shall provide supervising lawyers to the legal aid clinics in their jurisdiction.

SECTION 25. *Support for legal internship, apprenticeship, and training*. – To prepare the next generation of lawyers for ethical practice, lawyers shall support legal internship and apprenticeship programs and accept law students for training.

The lawyer shall treat the apprentices as junior colleagues and future counsels, and shall conscientiously supervise them.

SECTION 26. *Prompt payment of membership dues*. – A lawyer shall promptly pay the annual membership dues in the IBP, unless expressly exempt from such payment by law or rules.

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SECTION 34. *Active participation in the development of the legal profession*. – A lawyer shall participate in the development of the legal system by initiating or supporting efforts in law reform, the improvement of the administration of justice, strengthening the judicial and legal system, and advocacies in areas of special concern such as the environment, indigenous peoples' rights, human rights, access to justice, and good governance.

Responsibilities of a lawyer as an officer of the court

1. To act as an *amicus curiae*. The only exception for refusing an invitation is "just cause."
2. To be active in legal education.
 - a. To keep abreast of legal development
 - b. To participate in legal education programs
 - c. To support efforts to achieve standards of excellence in law schools/practical training of law students

- d. To assist IBP, law schools, law alumni associations and organizations in educating the public on the law and jurisprudence
- 3. To support legal internship, apprenticeship, and training.
 - a. Thus, lawyers must accept students for internship. The lawyer must treat the apprentice as “junior colleagues and future counsels.”
- 4. To promptly pay membership dues.
- 5. To actively participate in the development of the legal system by supporting efforts in law reform, administration of justice, strengthening judicial/legal system, and advocacies in areas of special concern.

SECTION 35. *Limited Legal Services.* – Limited Legal Services refer to services for a specific legal incident, with the expectation by the lawyer and the client that the lawyer will not provide continuing legal services in the matter. This includes being appointed as counsel de officio only for arraignment purposes or special appearances to make any court submission, to give advice, to draft legal documents, to provide legal assistance before courts or administrative bodies, and the like.

In all instances, the lawyer shall state that the service being rendered is in the nature of Limited Legal Services.

A lawyer who renders Limited Legal Services shall be entitled to compensation as may be agreed upon or provided by the Rules of Court.

SECTION 36. *Pro bono Limited Legal Services.* – A lawyer appointed by the court as counsel de officio shall not refuse to render Limited Legal Services *pro bono* on the ground of conflict of interest. Instead, the lawyer shall disclose to all affected parties such conflict of interest.

In any case, the lawyer may not refuse to render such *pro bono* legal services to the person concerned if only to the extent necessary to safeguard the latter’s fundamental rights and not to deprive such person of remedies available under the law or rules.

A lawyer currently serving in the government shall not be exempt from *pro bono* service and may be appointed by any court, tribunal, or other government agency as counsel de officio, unless prohibited by law, or the applicable Civil Service rules and regulations, or when there is a conflict of interest with the government.

SECTION 37. *Duty of confidentiality in Limited Legal Services.* – A lawyer who provides Limited Legal Services must protect the client’s private confidences to the same extent as if engaged under regular terms.

SECTION 38. *Termination of Limited Legal Services.* – Unless governed by Canon III, Section 36, a lawyer must cease to provide Limited Legal Services to a client when the lawyer becomes aware that there may be an actual or potential conflict of interest, except with the written informed consent of the client.

In all cases, the Limited Legal Services terminates upon the completion of such services.

SECTION 39. *Limited Legal Services of law student practitioners.* – The Limited Legal Services rendered by a law student practitioner under the Clinical Legal Education Program shall be governed by the CPRA.

SECTION 40. *Accountability of legal clinic director and supervising lawyer.* – A law student clinic director and supervising lawyer, under Rule 138-A of the Rules of Court shall provide meaningful training to law students. They shall assume responsibility for any work performed by the law student while under their supervision and shall comply with all the laws, rules, and guidelines pertaining to Law Student Practice.

Limited Legal Service (LLS)

- LLS refer to services for a *specific legal incident*, with the expectation that the lawyer will not provide continuing legal services (e.g., appointment as *counsel de officio*).
- The rules on conflict of interest *does not apply* to lawyers appointed as counsel de officio. Thus, they may not refuse the appointment on the ground of conflict of interest.
 - This rule also applies whenever the lawyer is appointed to safeguard the client's fundamental rights and not to deprive such person of remedies (e.g., appointed to appeal the case).
 - This rule also applies to government lawyers, unless prohibited by the law, applicable civil service rules, or the conflict of interest is with the government.
 - In any case, lawyer only has to disclose the conflict.
- In any other case (i.e., cases not in Sec. 36), the lawyer providing LLS must cease when he becomes aware of a conflict of interest.
- In *all* other cases, the LLS terminates upon the completion of services.
- As to law student practitioners, they shall be governed by CPRA. However, the supervising lawyer and legal clinic director assume responsibility for any work of the student.

SECTION 27. Confidentiality of privileged communication. – A lawyer shall maintain the confidences of the client, and shall respect data privacy laws. The duty of confidentiality shall continue even after the termination of the lawyer-client engagement.

SECTION 28. Protecting client confidences. – A lawyer shall not reveal the confidences of the client, including data from the client's files, except;

- (a) When a written informed consent is obtained from the client;
- (b) When required by law, such as anti-money laundering statutes, or the Rules of Court;
- (c) To the extent necessary, to collect the lawyer's fees;
- (d) In defense of the lawyer, or the lawyer's employees or associates; or
- (e) By judicial order, but only if material.

SECTION 29. Duty of confidentiality by former lawyers of a law firm. – A lawyer shall continue to be bound by the rule on confidentiality pertaining to clients of his or her previous law office or law firm.

SECTION 30. Duty of confidentiality of members of a law firm. – A lawyer may disclose the legal matters entrusted by a client of the firm to the partners and associates, as well as paralegals, legal assistants, law clerks, legal researchers, law interns, and other non-legal staff, who are or will be involved in the handling of the client's account, unless expressly prohibited by the client.

A lawyer directly entrusted with a client's confidences shall adopt necessary measures to prevent other members of the law firm, both legal and non-legal, to whom the client's confidences have been shared, from disclosing or using them, without the written informed consent of the client.

SECTION 31. Prohibition against filial disclosure. – A lawyer shall not discuss a client's confidences even with family members.

SECTION 32. Non-disclosure of legal consultation. – A lawyer shall not reveal that he or she has been consulted about a particular case except to avoid possible conflict of interest.

Confidentiality

- A lawyer shall maintain the confidences of the client and respect data privacy laws. **The duty of confidentiality continues even after termination.**
 - Exceptions:
 - When a written informed consent is obtained

- When required by law (e.g., AMLA) or the Rules of Court
- To the extent necessary, to collect the lawyer's fees
- In defense of the lawyer, or the lawyer's employees/associates
- By judicial order, but only if material
- For law firms, a lawyer may disclose to the partners and associates and other non-legal staff, unless expressly prohibited by the client.
 - Once a lawyer resigns from the firm, he is still bound by the rule on confidentiality pertaining to clients of his former firm.
- A lawyer shall not discuss a client's confidences even with his own family!
- He shall also not reveal that he has been consulted about a particular case, except to avoid conflict of interest (see § 17).
- The mere relation of attorney and client ought to preclude the attorney from accepting the opposite party's retainer in the same litigation regardless of what information was received by him from his first client (*Hilado v. David*).
- The attorney-client privilege protects confidential communications made in the course of lawful professional engagement, beginning at the inception of the relationship and continuing even after the case ends or the client dies.
 - However, this privilege applies only to legitimate consultations—it does not cover communications made in furtherance of a crime or fraud, since a lawyer is not expected to advise on illegal acts (*Genato v. Silapan*).
- As a matter of public policy, a client's identity should not be shrouded in mystery. Thus, a lawyer may not invoke the privilege and refuse to divulge the name or identity of his client. **Except:**
 - Where client identity is privileged where a strong probability exists that revealing the client's name would implicate that client in the very activity for which he sought the lawyer's advice.
 - Where disclosure would open the client to civil liability.
 - Where the government's lawyers have no case against an attorney's client unless, by revealing the client's name, the said name would furnish the only link that would form the chain of testimony necessary to convict an individual of a crime (*Regala v. Sandiganbayan*).
- Future vs. past crimes: Statements and communications regarding the commission of a crime **already committed**, made by a party who committed it, to an attorney, consulted as such, are **privileged** communications.
 - Communications between attorney and client having to do with the client's **contemplated** criminal acts, or in aid or furtherance thereof, are **not covered** by the cloak of privileges ordinarily existing in reference to communications between attorney and client.
 - In order that a communication between a lawyer and his client may be privileged, it must be for a lawful purpose or in furtherance of a lawful end (*People v. Sandiganbayan*).

SECTION 49. Accounting during engagement. – A lawyer, during the existence of the lawyer-client relationship, shall account for and prepare an inventory of any fund or property belonging to the client, whether received from the latter or from a third person, immediately upon such receipt.

When funds are entrusted to a lawyer by a client for a specific purpose, the lawyer shall use such funds only for the client's declared purpose. Any unused amount of the entrusted funds shall be promptly returned to the client upon accomplishment of the stated purpose or the client's demand.

SECTION 50. Separate funds. – A lawyer shall keep the funds of the clients separate and apart from his or her own and those of others kept by the lawyer.

SECTION 51. Prohibition against acquiring interest in object of litigation or transaction. – A lawyer shall not acquire, directly or indirectly, a proprietary interest in the property or rights which is the object of any litigation or transaction in which the lawyer may take part by virtue of the profession.

SECTION 52. Prohibition on lending and borrowing; exceptions. – During the existence of the lawyer-client relationship, a lawyer shall not lend money to a client, except under urgent and justifiable circumstances. Advances for professional fees and necessary expenses in a legal matter the lawyer is handling for a client shall not be covered by this rule.

Neither shall a lawyer borrow money from a client during the existence of the lawyer-client relationship, unless the client's interests are fully protected by the nature of the case, or by independent advice. This rule does not apply to standard commercial transactions for products or services that the client offers to the public in general, or where the lawyer and the client have an existing or prior business relationship, or where there is a contract between the lawyer and the client.

Client's property and funds

- The **fiduciary nature** of the relationship between the counsel and his client **imposes on the lawyer the duty to account for the money or property** collected or received for or from his client. Money entrusted to a lawyer for a specific purpose but not used for the purpose **should be immediately returned**.
 - Thus, a lawyer's failure, to *return upon demand*, the funds held by him on behalf of his client gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed in him by his Client.
 - Such act is a *gross violation* of general morality and professional ethics because it **impairs public confidence in the legal profession** (*Sison Jr. v. Camacho*).
- A lawyer is a mere trustee to the funds and property that may come into his possession. Thus, he must keep the funds separate and apart from his own and those of others kept by him. If the money is not utilized, he must return it immediately upon demand by the client.
- In case of failure to return such, a **presumption will arise that the lawyer misappropriated** the money, which is a violation of the fiduciary relationship with the client (*Barnachea v. Quocho*).
- Under Art. 1491 of the New Civil Code, a lawyer may not acquire the property of his client *which is the subject of litigation*. This prohibition is founded on public policy because an attorney may easily take advantage of the credulity and ignorance of his client and unduly enrich himself at the expense of his client (*In re Maquera*).
 - **Exception:** The prohibition of acquiring a client's property **does not apply** when the client and lawyer are business partners and not by reason of a lawyer-client relationship. Like when they are partners in a *lechon* business (*Zalamea v. De Guzman*).
- The prohibition against the lawyer borrowing money from his client is due to the fact that the client may be disadvantaged because the lawyer can use all the legal maneuverings available to circumvent his obligation (*Navarro v. Solidum*).
- The act of borrowing money from a client by a lawyer is highly uncalled for and therefore a ground for disciplinary action. It degrades a client's trust and confidence in his or her lawyer. This trust and confidence must be upheld at all times in accordance with a lawyer's duty to his or her client (*Villafuerte v. Tajanlangit*).
- **Exceptions:** Borrowing is allowed only if:
 - The client's interests are fully protected by the nature of the case, or
 - The client received independent advice.

Lawyer borrowing (debtor)	Lawyer lending (creditor)
General rule: Prohibited.	General rule: Prohibited.

<p>Exceptions:</p> <ol style="list-style-type: none"> 1. The client's interests are fully protected or by independent advice 2. Standard commercial transactions (e.g., client has a lending business) 3. When the lawyer and client have a business or contract. 	<p>Exception: For urgent and justifiable circumstances.</p>
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SECTION 41. *Fair and reasonable fees.* – A lawyer shall charge only fair and reasonable fees.

Attorney's fees shall be deemed fair and reasonable if determined based on the following factors:

- (a) The time spent and the extent of the service rendered or required;
- (b) The novelty and difficulty of the issues involved;
- (c) The skill or expertise of the lawyer, including the level of study and experience required for the engagement;
- (d) The probability of losing other engagements as a result of acceptance of the case;
- (e) The customary charges for similar services and the recommended schedule of fees, which the IBP chapter shall provide;
- (f) The quantitative or qualitative value of the client's interest in the engagement, or the benefits resulting to the client from the service;
- (g) The contingency or certainty of compensation;
- (h) The character of the engagement, whether limited, seasonal, or otherwise; and
- (i) Other analogous factors.

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SECTION 48. *Compensation for counsel de officio.* – Subject to availability of funds as may be provided by law, the court may, in its discretion, order a lawyer engaged as counsel de officio to be compensated in such sum as the court may fix following Canon III, Section 41, provided that it is not covered by the provision on Limited Legal Services.

Reasonable legal fees

- Legal fees must be reasonable. Reasonableness is dependent on the factors in § 41.
- There are **two concepts of attorney's fees**:
 - **Extraordinary concept** – Under Art. 2208 of the Civil Code, whereby it is deemed an item of damages and paid to the judgment creditor (*i.e.*, the litigant). Hence, it is the litigant—not his lawyer—who may enforce the judgment by execution.
 - **Ordinary concept** – Under a Contract of Professional Services, with the lawyer being the creditor and the client being the debtor.
- Consequently, attorney's fees may be asserted in either:
 - The very action in which the lawyer rendered his service (same case), or
 - In a separate action for collection.
- Thus, if the case has still not attained finality (*i.e.*, being appealed), there is no attorney's fees to be collected yet, because the award of damages may be deleted by the appellate court. In other words, attorney's fee cannot be determined until the main litigation has been decided (*Quirante v. IAC*).
- Another aspect of payment to the lawyer is the **acceptance fee**. It is the charge imposed by the lawyer *for mere acceptance of the case*.
 - Rationale: Acceptance fee constitutes the opportunity cost shouldered by the lawyer, since, once the lawyer agrees to represent the client, he is precluded from handling the case of the opposing party due to conflict of interest.

- Consequently, acceptance fees are *not* measured by the extent and nature of the legal services rendered.
- Still, **the Supreme Court may equitably reduce the acceptance fees paid on the basis of *quantum meruit***, such as when the lawyer merely conferred once with his client, filed an entry of appearance, obtained copies of case records, and inquired twice as to the status of the case (*Ignacio v. Alviar*).

SECTION 45. Prompt payment of legal fees. – A lawyer is entitled to prompt payment from the client of attorney’s fees.

Absent an express agreement as to professional fees, a lawyer is entitled to be paid reasonable attorney’s fees in accordance with Canon III, Section 41.

SECTION 46. Controversy over legal fees. – A lawyer shall avoid any controversy with a client concerning fees for legal services and shall resort to judicial action solely to prevent imposition, injustice or fraud.

SECTION 47. Enforcement of attorney’s lien. – In case of non-payment of attorney’s fees, a lawyer may resort to the enforcement of the attorney’s lien under Canon III, Section 54, by filing a Notice of Enforcement of Attorney’s Lien with the court, tribunal, or other government agency of origin where the action or proceeding the lawyer rendered service for is pending, without prejudice to other remedies under the law or the Rules of Court. The Notice shall be accompanied by proof of the services rendered, and served on the client. The court, tribunal, or other government agency, after hearing, shall determine the lawyer’s entitlement to the claimed fees.

The enforcement of an attorney’s lien shall be treated as an independent claim and shall in no instance delay the resolution of the main case. The resolution of the lawyer’s claim may be included in the main judgment or in a separate partial judgment. In the case of a partial judgment, the same shall be subject of appeal.

An appeal in the main case shall not stay the execution of the lawyer’s lien. In the execution of the judgment in the main case, the court shall give due consideration to the pending claim of the lawyer. If the claim for attorney’s lien arises after a decision has been rendered by the court, tribunal, or other government agency of origin on the action or proceeding, the claim for the enforcement of the lien shall be by an independent action.

Payment, lien and controversies

- A lawyer is entitled to prompt payment of attorney’s fees. If the parties did not agree to a specific amount, § 41 comes into play.
 - In any case, the lawyer shall avoid any controversy regarding fees. Judicial resort must only be resorted to prevent imposition, injustice or fraud.
- If the lawyer is unpaid, he may resort to the enforcement of an attorney’s lien.
 - A lien is an independent claim. Hence:
 - It may be executed pending appeal.
 - If it arises *after finality*, it becomes an independent action.
- **Charging liens, to satisfy attorney’s fees, may only be made upon judgments of money.** Any case where the effects of a judgment do not reward money bars the imposition of a lien in favor of the attorney (*Metrobank v. CA*).
 - Thus, if the case is for declaration of nullity of land titles, a charging lien may not be done because it does not involve money judgment.

- An attorney's lien for unpaid fees may be enforced against the funds or judgment proceeds awarded to the client, provided that the fee agreement is reasonable and not contrary to law or public policy.
 - The lawyer is entitled to have the unpaid fees satisfied from the funds in custodia legis, and the court or quasi-judicial body may order the payment of such fees directly to the lawyer upon proper notice and hearing (*Masmud v. NLRC*).
- Still, attorney's fees must not be unconscionable. Attorney's fees are unconscionable if they affront one's sense of justice, decency or reasonableness.
 - The power to determine the reasonableness or the, unconscionable character of attorney's fees stipulated by the parties is a matter falling within the regulatory prerogative of the courts (*Roxas v. De Zuzuarregui*).
- Nevertheless, the court acknowledged that contingent fees may be higher than the normal attorney's fees. Contingent fee contracts are subject to the supervision and close scrutiny of the court in order that clients may be protected from unjust charges.
 - The amount of contingent fees agreed upon by the parties is subject to the stipulation that counsel will be paid for his legal services only if the suit or litigation prospers.
 - A much **higher compensation is allowed as contingent fees because of the risk** that the lawyer may get nothing if the suit fails (*Masmud, supra*).
- An attorney is entitled to be properly compensated for the professional services rendered for the client. Absent the lawyer's fault, consent, or waiver, a client cannot deprive them of the just fees already earned.
 - Thus, the client *cannot, in bad faith*, enter into a compromise agreement to deprive the lawyer of attorney's fees. (*Malvar v. Kraft Foods*).
- **To establish an attorney's lien, the following requisites must concur:**
 - A lawyer-client relationship
 - Lawful possession of the client's money, documents and papers
 - A lawyer may not claim a "lien" over a passport, because the government owns it and the public is a mere possessor.
 - Unsatisfied claim for attorney's fees (*Shumali v. Agustin*).
- Champerty is illegal for being contrary to public policy.
 - **Champertous contract** – A contract between a **stranger and a party** to a lawsuit, whereby the stranger pursues the party's claim **in consideration of receiving part or any of the proceeds** recovered under the judgment; a bargain by a stranger with a party to a suit, by which such third person undertakes to carry on the litigation at his own cost and risk, in consideration of receiving, if successful, a part of the proceeds or subject sought to be recovered.
 - It is a form of maintenance, but with the additional element of profiteering or sharing in the potential proceeds of the suit (litigation financing agreement).
 - *Maintenance* – Layman's furnishing money to permit a lawyer to provide, in part, costs and expenses in carrying on litigation for a third party (*RODCO v. Ross*).

SECTION 53. Termination of engagement by the lawyer. – A lawyer shall terminate the lawyer-client engagement only for good cause and upon written notice, in any of the following cases:

- (a) When the client pursues an illegal or immoral course of conduct in connection with the engagement;
- (b) When the client insists that the lawyer pursue conduct that is violative of these Canons and rules;
- (c) When the lawyer's inability to work with a co-counsel will not promote the best interest of the client;

- (d) When the moral predisposition or the mental or physical condition of the lawyer renders it difficult to carry out the engagement effectively;
- (e) When the client deliberately fails to pay the fees for the lawyer's services, fails to comply with the retainer agreement, or can no longer be found despite diligent efforts;
- (f) When the lawyer is elected or appointed to public office;
- (g) Other similar cases.

SECTION 54. Termination of engagement by the client. – The lawyer-client engagement may be terminated by the client at any time upon loss of trust and confidence.

The termination of the engagement shall not relieve the client from full payment of all professional fees due to the lawyer. If the engagement has been reduced to writing, the lawyer shall be entitled to recover from the client the full compensation stipulated, unless found by the court, tribunal or other government agency to be unconscionable or unreasonable under Canon III, Section 41 of the CPRA.

For the payment of the compensation, the lawyer shall have a charging lien upon all judgments for the payment of money, and executions issued in pursuance of such judgment, rendered in the case where the lawyer's services had been retained by the client.

SECTION 55. Termination of engagement upon death. – The death of the lawyer or client shall terminate the lawyer-client relationship. The death of such lawyer shall not extinguish the lawyer client engagement between the law firm and the client handled by such law firm.

SECTION 56. Accounting and turn over upon termination of engagement. – A lawyer who is discharged from or terminates the engagement shall, subject to an attorney's lien, immediately render a full account of and turn over all documents, evidence, funds, and properties belonging to the client.

The lawyer shall cooperate with the chosen successor in the orderly transfer of the legal matter, including all information necessary for the efficient handling of the client's representation.

A lawyer shall have a lien upon the funds, documents, and papers of the client which have lawfully come into his or her possession and may retain the same until the fair and reasonable fees and disbursements have been paid, and may apply such funds to the satisfaction thereof.

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SECTION 38. Termination of Limited Legal Services. – Unless governed by Canon III, Section 36, a lawyer must cease to provide Limited Legal Services to a client when the lawyer becomes aware that there may be an actual or potential conflict of interest, except with the written informed consent of the client.

In all cases, the Limited Legal Services terminates upon the completion of such services.

Termination

Termination by client	Termination by lawyer
A client has the absolute right to terminate the attorney-client relation at any time with or without cause .	<u>Only for:</u> <ul style="list-style-type: none"> a. Good cause; b. Upon written notice; and c. In any of the following cases: <ul style="list-style-type: none"> i. Client pursues an illegal/immoral course of conduct in connection with the engagement ii. Client insists that the lawyer pursue conduct that is violative of these Canons and rules

	<ul style="list-style-type: none"> iii. The lawyer's inability to work with a co-counsel will not promote the best interest of the client iv. The moral predisposition or physical condition of the lawyer renders it difficult to carry out the engagement effectively v. The client deliberately fails to pay the fees for the lawyer's services, fails to comply with the retainer arrangement, or can no longer be found despite diligent efforts vi. The lawyer is elected/appointed to public office vii. Other similar cases
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- A lawyer may retire at any time from any action or special proceeding with the written consent of his client filed in court and copy thereof served upon the adverse party. Should the client refuse to give his consent, the lawyer must file an application with the court.
 - Then, the court will decide.
 - If the lawyer hasn't done this and merely disappeared from the client, he will be disciplined (*Orcino v. Gaspar*).
- Under the Rules of Court, a lawyer may withdraw from the case either by:
 - Retiring at any time with the written consent of his client filed in court, or
 - Retiring without the consent of his client, but with court approval, after notice to client and hearing (*Chang v. Hidalgo*).
- Death of either the lawyer or client terminates the lawyer-client relationship. However, if the lawyer belongs to a firm, the lawyer's death does not terminate the client's engagement with the firm.
- Upon termination, the lawyer shall account and turn over all properties belonging to the client.
 - If the client changes a lawyer, the former lawyer shall cooperate with the new lawyer.
 - In any case, the lawyer shall have a lien upon the properties of the client *which have lawfully come into his possession and may retain them* until he is paid.

Canon IV: Competence and Diligence

SECTION 1. Competent, efficient and conscientious service. – A lawyer shall provide legal service that is competent, efficient, and conscientious. A lawyer shall be thorough in research, preparation, and application of the legal knowledge and skills necessary for an engagement.

SECTION 2. Undertaking legal services; collaborating counsel. – A lawyer shall only undertake legal services he or she can deliver.

With the prior written consent of the client, a lawyer may secure the services of a collaborating counsel.

Competent service

- Legal service must be:
 - Competent
 - Efficient
 - Conscientious

- Thus, a lawyer who was engaged to handle a nullity of marriage case should not have filed a petition for legal separation. Thus, he misrepresented his professional competence and skill to his client, because he did not know the difference between the two.
 - A lawyer may only undertake service which he can deliver!
 - The respondent should not have accepted the engagement because as it was later revealed, it was way above his ability and competence to handle the case for annulment of marriage. As a consequence, he had no basis to accept any amount as attorney's fees from the complainant (*Sanchez v. Aguilos*).
- A lawyer may secure the services of a collaborating counsel, only with the prior written consent of the client (*Llunar v. Ricafort*).

SECTION 3. *Diligence and punctuality.* – A lawyer shall diligently and seasonably act on any legal matter entrusted by a client.

A lawyer shall be punctual in all appearances, submissions of pleadings and documents before any court, tribunal or other government agency, and all matters professionally referred by the client, including meetings and other commitments.

SECTION 4. *Diligence in all undertakings.* – A lawyer shall observe diligence in all professional undertakings, and shall not cause or occasion delay in any legal matter before any court, tribunal, or other agency.

A lawyer shall appear for trial adequately familiar with the law, the facts of the case, and the evidence to be presented. A lawyer shall also be ready with the object and documentary evidence, as well as the judicial affidavits of the witnesses, when required by the rules or the court.

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SECTION 7. *Extension of time to file.* – A lawyer shall avoid asking for an extension of time to file any pleading, motion, or other court submission, except when allowed by the Rules of Court or for good cause.

When an extension is obtained, the lawyer shall not let the period lapse without submitting the pleading, motion, or other court submission, except upon the client's decision not to pursue the case any further or for other justifiable cause.

Diligence and punctuality

- A lawyer shall not cause or occasion delay! Thus, extensions must be avoided, except when allowed or for good cause.
- Nothing is more settled than the rule that the mistake of a counsel binds the client. It is only in case of gross or palpable negligence of counsel when the courts must step in and accord relief to a client who suffered thereby.
 - Thus, the court granted a petition for annulment of judgment following the counsel's gross and inexcusable negligence in abandoning the appeal of his client's adverse judgment. This effectively deprived the client of her day in court (*Legarda v. CA*).
- The lawyer's diligence and dedication to his work and profession not only promote the interest of his client, it likewise help attain the ends of justice by contributing to the proper and speedy administration of cases, bring prestige to the bar and maintain respect to the legal profession.
 - Thus, the court disciplined a PAO lawyer who failing to attend his client's case (failed to file position paper) (*Endaya v. Oca*).

- The court also disciplined a lawyer who no longer appeared in a case after signing an entry of appearance. A counsel's signature on a pleading is neither an empty formality nor even a means for identification (*In re Sarmiento*).
 - This liability also extended to the law firm. As professionals, lawyers are expected to be on top of and to keep his and her files updated. This obligation applies with even more force to law offices who presumably have the resources to maintain a more sophisticated process of recording, tracking, and updating their case records and database.
- A lawyer's mere failure to perform the obligations due his or her client is per se a violation.
 - **Simple negligence** – An act categorized as a less serious offense, is such negligence which *does not* result in depriving the client of his day in court (*Lim v. Navarro*).

SECTION 5. Prompt and objective assessment of the merits. – A lawyer shall, after reasonable inquiry, promptly give an objective assessment of the merits and probable results of the client's case.

A lawyer shall explain the viable options to the client to enable an informed decision regarding the matter.

Prompt and objective assessment

- Upon accepting a client, the lawyer must—after reasonable inquiry—objectively assess the merits and probable results. He must also explain the options to the client.
- Thus, the court disciplined a lawyer who kept on filing pleadings to reopen a case which has long attained finality.
 - *Tolentino v. So*: Atty. Ancheta should have very well known that a decision that has attained finality is no longer open for reversal and should be respected. A lawyer's duty to assist in the speedy administration of justice demands recognition that at a definite time, issues must be laid to rest and litigation ended. As such, Ancheta should have advised complainants to accept the judgment of the Court of Appeals and accord respect to the just claim of the opposite party. **He should have tempered his clients' propensity to litigate and save them from additional expense in pursuing their contemplated action. Instead, he gave them confident assurances** that the case could still be reopened and even furnished them a copy of his prepared "motion to reopen case."

Canon V: Equality

Every lawyer shall adhere to the principle of equality and hold firmly the belief that every person, regardless of nationality or ethnicity, color, sexual orientation or gender identity, religion, disability, age, marital status, social or economic status, and other like circumstances, has the fundamental right to equal treatment and representation.

As such, the lawyer shall accord equal respect, attention, dedication and zeal in advancing the client's cause, regardless of personal opinion, religious or political beliefs pertaining on the personal circumstances of the client, except for justifiable reasons.

SECTION 1. Non-discrimination. – A lawyer shall not decline to represent a person solely on account of the latter's nationality or ethnicity, sexual orientation or gender identity, religion, disability, age, marital status, social or economic status, political beliefs, or such lawyer's or the public's opinion regarding the guilt of said person, except for justifiable reasons.

SECTION 2. Treatment of vulnerable persons. – In dealing with a client who belongs to a vulnerable sector, a lawyer shall be mindful and sensitive of, and consider the client's special circumstances, as well as the applicable laws and rules.

The lawyer shall observe a higher standard of service suited to the particular needs of the vulnerable person and shall assert such person's right to meaningful access to justice.

A vulnerable person is a person who is at a higher risk of harm than others, and shall include children, the elderly, the homeless, persons with disability, persons deprived of liberty, human rights victims, victims of domestic violence, victims of armed conflict, those who are socio-economically disadvantaged, those who belong to racial or ethnic minorities, or those with debilitating physical or mental conditions.

SECTION 3. *Indigent person.* – A lawyer shall not refuse the representation of an indigent person, except if:

- (a) the lawyer is not in a position to carry out the work effectively or competently due to a justifiable cause;
- (b) the lawyer will be placed in a conflict-of- interest situation; or
- (c) the lawyer is related to the potential adverse party, within the sixth degree of consanguinity or affinity, or to the adverse counsel, within the fourth degree.

An indigent is any person who has no money or property sufficient for food, shelter and other basic necessities for oneself and one's family.

SECTION 4. *Standard of service.* — A lawyer shall observe the same standard of service for all clients, regardless of remuneration, except for the higher standard required for representation of vulnerable persons.

Equality

- Except for justifiable cause, a lawyer may not discriminate on the basis of:
 - Nationality or ethnicity
 - SOGIE
 - Religion
 - Disability
 - Age
 - Marital Status
 - Social or economic status
 - Political beliefs
 - Lawyer or public's opinion on guilt of the person
- If the client is a vulnerable person, the lawyer must be mindful and sensitive of the circumstances and the laws and rules. They shall observe a higher standard of service.
 - Vulnerable person – A person who is at a higher risk of harm than others (e.g., children, elderly, human rights victims).
- General rule: A lawyer shall not refuse representation of an indigent.
 - Exceptions:
 - Justifiable cause
 - Conflict of interest
 - Lawyer is related to the indigent's adverse party within the 6th degree, or to the opposing counsel within the 4th degree
- In all cases, the lawyer shall observe the same standard of service for all clients.

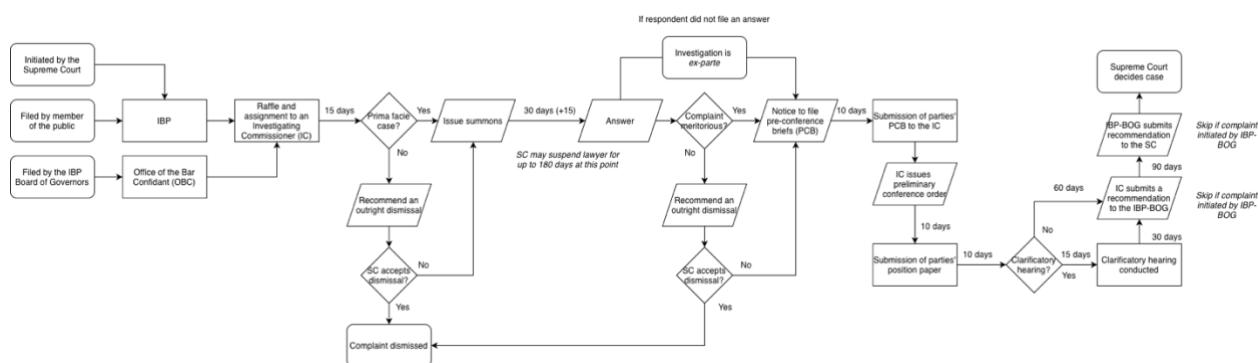
Canon VI: Accountability

By taking the Lawyer's Oath, a lawyer becomes a guardian of the law and an administrator of justice. As such, the lawyer shall observe the highest degree of morality, adhere to rigid standards of mental fitness, and faithfully comply with the rules of the legal profession.

Failure to honor this covenant makes the lawyer unfit to continue in the practice of law and accountable to society, the courts, the legal profession, and the client.

SECTION 1. Nature of disciplinary proceedings against lawyers. – Disciplinary proceedings against lawyers shall be confidential in character and summary in nature.

Nonetheless, the final order of the Supreme Court shall be published like its decisions in other cases.



Contents of complaint

- Verified
- State clearly and concisely the acts or omissions complained of
- Judicial affidavits and other documents in support

Investigating commissioners (IC)

- They are appointed by the Supreme Court, upon recommendation of the IBP.
 - 150 lawyers in good standing and repute, proportionally selected from the nine regions.
- They serve for a term of three years.
- An IC may inhibit himself on the following grounds:
 - Relationship within the 4th degree with any of the parties/counsels
 - Professional legal relationship
 - Pecuniary interest
 - He acted as a counsel for either party, except when there is written consent by the parties.

Allowed and prohibited submissions

Allowed (all verified)	Prohibited
<ol style="list-style-type: none"> 1. Complaint with CNFS 2. Answer 3. Position papers 	<ol style="list-style-type: none"> 1. Motion to dismiss, except on lack of jurisdiction, <i>litis pendentia</i> or <i>res judicata</i> 2. Motion for a bill of particulars 3. Motion to reopen or for new trial 4. Petition for relief from judgment 5. Supplemental pleadings 6. Motion for reconsideration of a judgment <i>on the merits</i>

Preventive suspension

- After receipt of the respondent's answer or lapse of period, the court may suspend a lawyer for the practice of law for up to 180 days or until the courts lifts the suspension.
 - Bases for preventive suspension:
 - Prevent interference with or obstruction of the investigation
 - Tampering
 - Concealment or destruction of evidence
 - Intimidating or exerting undue influence on any witness

Quantum and burden of proof

- Quantum – Substantial evidence.
 - That amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.
- Burden – The complainant.

SECTION 33. *Serious offenses.* – Serious offenses include:

- (a) Gross misconduct, or any inexcusable, shameful or flagrant unlawful conduct;
- (b) Serious dishonesty, fraud, or deceit, including falsification of documents and making untruthful statements;
- (c) Bribery or corruption;
- (d) Gross negligence in the performance of duty, or conduct that is reckless and inexcusable, which results in the client being deprived of his or her day in court;
- (e) Conviction of a crime involving moral turpitude;
- (f) Grossly immoral conduct, or an act that is so corrupt or false as to constitute a criminal act, or so immoral as to be reprehensible to a high degree;
- (g) Misappropriating a client's funds or properties;
- (h) Gross ignorance of the law or procedure, or the disregard of basic rules and settled jurisprudence, when either is attended by bad faith, malice, or corrupt motive;
- (i) Grossly undignified conduct prejudicial to the administration of justice;
- (j) Sexual abuse;
- (k) Gender-based sexual harassment or discrimination;
- (l) Open defiance to any order of the court, tribunal, or other government agency;
- (m) Threat of physical or economic harm, amounting to a crime, directed at a fellow lawyer, the latter's client or principal, a witness, or any official or employee of a court, tribunal, or other government agency;
- (n) Willful and deliberate forum shopping, and forum shopping through gross negligence;
- (o) Intentional violation of the rule on privileged communication;
- (p) Violation of the notarial rules, except reportorial requirements, when attended by bad faith;
- (q) Intentional violation of the conflict of interest rules;
- (r) Influence-peddling or using one's relationships to obtain a favorable action on, or outcome in, any pending matter or proceeding, directly or indirectly, with or without monetary consideration, from any officer of a court, tribunal or other government agency;
- (s) Unlawful discrimination under Canon V; and
- (t) Sale, distribution, possession and/or use of illegal drugs or substances.

SECTION 34. *Less serious offenses.* – Less serious offenses include:

- (a) Simple misconduct, or such misconduct without the manifest elements of corruption, clear intent to violate the law or flagrant disregard of established rules;
- (b) Simple negligence in the performance of duty, or such negligence which does not result in depriving the client of his or her day in court;
- (c) Violation of Supreme Court rules and issuances in relation to Bar Matters and administrative disciplinary proceedings, including willful and deliberate disobedience of the orders of the Supreme Court and the IBP;
- (d) Simple dishonesty;
- (e) Other violations of the conflict of interest rules;

- (f) Prohibited borrowing of money from a client;
- (g) Prohibited lending of money;
- (h) Other unlawful threats;
- (i) Instituting frivolous or baseless actions, on the basis of a final decision or order dismissing such action for being frivolous or baseless;
- (j) Violation of the sub Judice rule;
- (k) Deliberate failure or refusal to pay just debts;
- (l) Termination of legal services absent good cause and written notice;
- (m) Use of intemperate or offensive language before any court, tribunal, or other government agency;
- (n) Unjustifiable failure or refusal to render an accounting of the funds or properties of a client;
- (o) Unauthorized division of fees with a non-lawyer; and
- (p) Other violations of reportorial requirements.

SECTION 35. *Light offenses.* – Light offenses include:

- (a) Violation of IBP rules and issuances governing membership in the IBP;
- (b) Use of vulgar or offensive language in personal dealings;
- (c) Fraternizing with the officials or employees of a court, tribunal, or other government agency where the respondent has a pending case or cases, to such a degree and frequency as would give the appearance of power or influence over them, or which tends to create an impression of impropriety;
- (d) Filing of frivolous motions for inhibition;
- (e) Failure to promptly call upon client to rectify a fraudulent act; or
- (f) Other similar or analogous infractions of the CPRA.

SECTION 36. *Assisting in the commission of an offense.* – Any lawyer who shall knowingly assist another lawyer in the commission of any serious, less serious, or light offense punished by the CPRA may also be held liable.

Offense	Possible sanctions	Qualifications
Serious	<p>Disbarment</p> <p>Suspension from the practice of law for a period exceeding 6 months</p> <p>Revocation of notarial commission and disqualification as notary public for not less than 2 years</p> <p>A fine exceeding P100,000</p>	If the offense involves money or property owed, which is intrinsically linked to the lawyer-client relationship, the respondent shall be ordered to return it.
Less Serious	<p>Suspension from the practice of law for a period within the range of 1 to 6 months, <i>or</i> revocation of notarial commission and disqualification as notary public for less than 2 years</p> <p>A fine within the range of P35,000 to P100,000</p>	If the offense involves money or property owed, which is intrinsically linked to the lawyer-client relationship, the respondent shall be ordered to return it.
Light	<p>A fine within the range of P1,000 to P35,000</p> <p>Censure</p> <p>Reprimand</p>	If the offense involves money or property owed, which is intrinsically linked to the lawyer-client relationship, the respondent shall be ordered to return it.

		The respondent may also be required to do community service or service in the IBP legal aid program.
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SECTION 38. *Modifying circumstances.* – In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:

(a) Mitigating circumstances:

- (1) First offense, except in charges of gross misconduct, bribery or corruption, grossly immoral conduct, misappropriating a client's funds or properties, sexual abuse, and sale, distribution, possession and/or use of illegal drugs or substances;
- (2) Absence of bad faith or malice;
- (3) Return of the amounts owed;
- (4) Expression of remorse;
- (5) Reconciliation with the complainant;
- (6) Rectification of wrongdoing;
- (7) Act or omission did not prejudice the client;
- (8) Age;
- (9) Number of years in the practice of law;
- (10) Humanitarian considerations; and
- (11) Other analogous circumstances.

(b) Aggravating Circumstances:

- (1) Finding of previous administrative liability where a penalty is imposed, regardless of nature or gravity;
- (2) Age;
- (3) Number of years in the practice of law;
- (4) Employment of fraudulent means to conceal the offense;
- (5) Respondent's act or omission was tainted with bad faith or malice, except when it is an element of the offense;
- (6) Lack of remorse;
- (7) Failure to comply with the orders of the Court and the IBP in relation to an administrative case; and
- (8) Other analogous circumstances.

SECTION 39. *Manner of imposition.* – If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule. The Supreme Court may, in its discretion, impose the penalty of disbarment depending on the number and gravity of the aggravating circumstances.

If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under the CPRA.

If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each other.

SECTION 40. *Penalty for multiple offenses.* – If the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense. Should the aggregate of the imposed penalties exceed five (5) years of suspension from the practice of law or P1,000,000.00 in fines, the respondent may, in the discretion of the Supreme Court, be meted with the penalty of disbarment.

If a single act or omission gives rise to more than one (1) offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.

SECTION 41. *Payment of fines and return of client's money and property.* – When the penalty imposed is a fine or the respondent is ordered to return the client's money or property, the respondent shall pay or return it within a period not exceeding three (3) months from receipt of the decision or resolution. If unpaid or unreturned, the Court may cite the respondent in indirect contempt.

SECTION 42. *Penalty when the respondent has been previously disbarred.* – When the respondent has been previously disbarred and is subsequently found guilty of a new charge, the Court may impose a fine or order the disbarred lawyer to return the money or property to the client, when proper. If the new charge deserves the penalty of a disbarment or suspension from the practice of law, it shall not be imposed but the penalty shall be recorded in the personal file of the disbarred lawyer in the Office of the Bar Confidant or other office designated for the purpose. In the event that the disbarred lawyer applies for judicial clemency, the penalty so recorded shall be considered in the resolution of the same.

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SECTION 52. *Prohibition against employment of disbarred or suspended lawyer.* – A lawyer who has been disbarred or suspended shall not be employed or engaged in the practice of law, including the performance of the following acts:

- (a) Providing legal consultation or advice;
- (b) Appearing on behalf of a client in any hearing or proceeding before any court, tribunal, or other government agency or office;
- (c) Appearing as a representative of a client at a deposition or other discovery matter;
- (d) Negotiating or transacting any legal matter for or on behalf of a client with third parties;
- (e) Receiving, disbursing, or otherwise handling a client's funds;
- (f) Teaching law subjects in any educational institution; or
- (g) Acting and being commissioned as a Notary Public.

A suspended lawyer shall immediately cease and desist from the practice of law until the suspension is lifted by the Supreme Court.

Any client previously represented by a suspended lawyer may engage the services of a new lawyer.

The disbarment or suspension of a handling lawyer shall not terminate the lawyer-client engagement between the client and the law firm, unless the client chooses otherwise.

Penalties and their application

- When a lawyer has already been previously disbarred, and is later found guilty of a new offense, the Supreme Court cannot impose disbarment anew.
 - Instead, they shall record the new penalty in the lawyer's personal file. This record serves as a basis for assessing the lawyer's eligibility for judicial clemency should reinstatement be sought by them in the future
 - Public service demands utmost honesty and propriety; a disbarred lawyer remains accountable for subsequent misconduct, even if the full penalty can no longer be reimposed (*OPP of Cavite v. Mas*).
- The decision is immediately executory.
- In any case, the disbursement/suspension of a lawyer shall not terminate the lawyer-client engagement between the client and the law firm, unless the client chooses otherwise.

What cannot be done by a suspended lawyer

1. Provide legal consultation or advice

2. Appear on behalf of a client in any court, tribunal or office
3. Appear as a representative of a client at a deposition or discovery matter
4. Negotiate/transact any legal matter
5. Receive, disburse or handle a client's funds
6. Teach law subjects
7. Acting and being commissioned as a notary public

SECTION 45. Sworn statement after service of suspension. – Upon the expiration of the period of suspension from the practice of law, the lawyer shall file a Sworn Statement with the Supreme Court, through the Office of the Bar Confidant, to show that the petitioner, during the period of suspension:

- (a) has not appeared before any court, tribunal or other government agency, whether in respect of current, former or prospective clients;
- (b) has not signed or filed any pleading or other court submission;
- (c) has duly informed his or her clients, law firm, law school where the lawyer is teaching, legal clinic, or other legal service organization of which he or she is a member, regarding the suspension; and
- (d) has not otherwise performed any act, directly or indirectly, that amounts to the practice of law.

The Sworn Statement shall state the date of the lawyer's receipt of the order, decision or resolution imposing the penalty of suspension, as well as a list of the lawyer's engagements affected by the suspension, indicating the relevant court, tribunal or other government agency, if any.

Copies of the Sworn Statement shall be furnished to the Local Chapter of the IBP, to the Executive Judge of the courts where the suspended lawyer has pending cases handled by him or her, and/or where he or she has appeared as counsel.

SECTION 46. Resumption of practice of law. – The Sworn Statement shall be considered as proof of the suspended lawyer's compliance with the order of suspension. Such lawyer shall be allowed to resume the practice of law upon the filing of the Sworn Statement before the Supreme Court.

However, any false statement in the Sworn Statement shall be a ground for a complaint for disbarment.

Within five (5) days from the filing of the Sworn Statement and the Office of the Bar Confidant determines that there is a false statement stated therein, it shall refer the same to the Court for its immediate action.

Resumption of practice

- Following the expiration of the period of suspension, the lawyer shall file a Sworn Statement with the Supreme Court (through the OBC).
- This Sworn Statement shall be considered as proof of the lawyer's compliance with the suspension order.
- Upon filing of the Sworn Statement, he shall be allowed to resume the practice of law.
 - Any false statement shall be a ground for disbarment.
 - The OBC shall refer the statement if it contained falsities.
- *See midterm notes for judicial clemency!*

New Code of Judicial Conduct for the Philippine Judiciary³

Canon I: Independence

Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

³ The discussion should be supplemented with the material provided by Judge Joeven Dellosa.

SECTION 1. Judges shall exercise the judicial function independently on the basis of their assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influence, inducement, pressure, threat or interference, direct or indirect, from any quarter or for any reason.

SECTION 2. In performing judicial duties, Judges shall be independent from judicial colleagues in respect of decisions which the judge is obliged to make independently.

SECTION 3. Judges shall refrain from influencing in any manner the outcome of litigation or dispute pending before another court or administrative agency.

SECTION 4. Judges shall not allow family, social, or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge.

SECTION 5. Judges shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to be free therefrom to a reasonable observer.

SECTION 6. Judges shall be independent in relation to society in general and in relation to the particular parties to a dispute which he or she has to adjudicate.

SECTION 7. Judges shall encourage and uphold safeguards for the discharge of judicial duties in order to maintain and enhance the institutional and operational independence of the judiciary.

SECTION 8. Judges shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence.

Independence

- Judicial independence is the backbone of democracy. It is essential not only to the preservation of our justice system, but of government as well. Judges have an affirmative duty to defend and uphold the integrity and independence of the judiciary. Thus, it has two components:
 - **Individual judicial independence** – Focuses on each particular judge and seeks to insure his or her ability to decide cases with autonomy within the constraints of the law.
 - A judge has this kind of independence when he can do his job without having to hear—or at least without having to take it seriously if he does hear—criticisms of his personal morality and fitness for judicial office
 - **Institutional judicial independence** – Focuses on the independence of the judiciary as a branch of government and protects judges as a class (*In re Macasaet*).
- Judges should be free from social influences that would affect their judicial conduct or judgment. Their office should not be used to advance private interests.
 - Thus, the Supreme Court disciplined a Court of Appeals justice who took a phone call from his brother who is a government official while the said justice was sitting on a high-stakes case from the government (*In re Vasquez*).
- A judge must not only render a just, correct, and impartial decision but must do so in a manner free from any suspicion as to his fairness, impartiality, and integrity.
 - Hence, a judge was disciplined when he sat in the bail hearing of an accused whom he has a close association (*Libarios v. Dabalos*).
- A judge is generally expected to duly render and administer justice without the fear of displeasing anyone as a result of the decision rendered. Being fearful to upset/displease people may affect a

judge's partiality to the effect that it would influence a judge to render a favorable decision to avoid upsetting said person.

- A judge was disciplined because of her over-zealousness in implementing the order of arrest. This effectively created the impression that she has taken an interest far and beyond that ordinarily expected of judicial officers with respect to cases pending before them (*Ramirez v. Corpuz-Macandog*).

Canon II: Integrity

Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges.

SECTION 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.

SECTION 2. The behavior and conduct of judges must reaffirm the people's faith in the integrity of the judiciary. Justice musty not merely be done but must also be seen to be done.

SECTION 3. Judges should take or initiate appropriate disciplinary measures against lawyers or court personnel for unprofessional conduct of which the judge may have become aware.

Integrity

- A judge must be free of a **whiff** of impropriety not only with respect to his performance of his judicial duties, but also to his behavior outside his sala and as *a private individual*. There is no dichotomy of morality: a public official is also judged by his private morals.
- The Code dictates that a judge, in order to promote public confidence in the integrity and impartiality of the judiciary, must behave with propriety at all times. A judge's official life cannot simply be detached or separated from his personal existence.
 - Thus, the court disciplined a judge who kept a mistress (*In re Judge Marcos*)!

Canon III: Impartiality

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

SECTION 1. Judges shall perform their judicial duties without favor, bias or prejudice.

SECTION 2. Judges shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

SECTION 3. Judges shall, so far as is reasonable, so conduct themselves as to minimize the occasions on which it will be necessary for them to be disqualified from hearing or deciding cases.

SECTION 4. Judges shall not knowingly, while a proceeding is before, or could come before, them make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall judges make any comment in public or otherwise that might affect the fair trial of any person or issue.

SECTION 5. Judges shall disqualify themselves from participating in any proceedings in which they are unable to decide the matter impartially or in which it may appear to a reasonable observer that they are unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where

- (a) The judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;
- (b) The judge previously served as a lawyer or was a material witness in the matter in controversy;
- (c) The judge, or a member of his or her family, has an economic interest in the outcome of the matter in controversy;
- (d) The judge served as executor, administrator, guardian, trustee or lawyer in the case or matter in controversy, or a former associate of the judge served as counsel during their association, or the judge or lawyer was a material witness therein;
- (e) The judge's ruling in a lower court is the subject of review;
- (f) The judge is related by consanguinity or affinity to a party litigant within the sixth civil degree or to counsel within the fourth civil degree; or
- (g) The judge knows that his or her spouse or child has a financial interest, as heir, legatee, creditor, fiduciary, or otherwise, in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceedings.

SECTION 6. A judge disqualified as stated above may, instead of withdrawing from the proceeding, disclose on the records the basis of disqualification. If, based on such disclosure, the parties and lawyers independently of the judge's participation, all agree in writing that the reason for the inhibition is immaterial or unsubstantial, the judge may then participate in the proceeding. The agreement, signed by all parties and lawyers, shall be incorporated in the record of the proceedings.

Impartiality

- Section 5 lays down the instances where inhibition is mandatory.
 - Note: "Family" includes the judge's spouse, son, daughter, son-in-law, daughter-in-law, and any other within the 6th degree. It also includes any person who is a companion or employee of the judge and who lives in the judge's household (e.g., a stay-in driver).
- The Supreme Court emphasized that a court of law is no place for a protracted debate on the morality or propriety of the sentence, where the law itself provides for the sentence of death as a penalty in specific and well-defined instances. The discomfort faced by those forced by law to impose the death penalty is an ancient one, but it is a matter upon which judges have no choice.
 - Thus, the court reversed a judge who refused to impose the death penalty due to his religious or political belief (*People v. Hon. Veneracion*).
- Judges should be scrupulously careful to avoid anything that may tend to awaken the suspicion that their personal, social or sundry relations could influence their objectivity. Not only must judges possess proficiency in law, they must also act and behave in such manner that would assure litigants and their counsel of the judges' competence, integrity and independence.
 - Thus, the court disciplined a judge who sat on a case where the judge's sister was classmates with a relative of the accused (*Jorda v. Hon. Bitas*).

Canon IV: Propriety

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

SECTION 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

SECTION 2. As a subject of constant public scrutiny, judges must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, judges conduct themselves in a way that is consistent with the dignity of the judicial office.

SECTION 3. Judges shall, in their personal relations with individual members of the legal profession who practice regularly in their court, avoid situations which might reasonably give rise to the suspicion or appearance of favoritism or partiality.

SECTION 4. Judges shall not participate in the determination of a case in which any member of their family represents a litigant or is associated in any manner with the case.

SECTION 5. Judges shall not allow the use of their residence by a member of the legal profession to receive clients of the latter or of other members of the legal profession.

SECTION 6. Judges, like any other citizen, are entitled to freedom of expression, belief, association and assembly, but in exercising such rights, they shall always conduct themselves in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.

SECTION 7. Judges shall inform themselves about their personal fiduciary financial interests and shall make reasonable efforts to be informed about the financial interests of members of their family.

SECTION 8. Judges shall not use or lend the prestige of the judicial office to advance their private interests, or those of a member of their family or of anyone else, nor shall they convey or permit others to convey the impression that anyone is in a special position improperly to influence them in the performance of judicial duties.

SECTION 9. Confidential information acquired by judges in their judicial capacity shall not be used or disclosed by for any other purpose not related to their judicial duties.

SECTION 10. Subject to the proper performance of judicial duties, judges may:

- a. Write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;
- b. Appear at a public hearing before an official body concerned with matters relating to the law, the legal system, the administration of justice or related matters;
- c. Engage in other activities if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties.

SECTION 11. Judges shall not practice law whilst the holder of judicial office.

SECTION 12. Judges may form or join associations of judges or participate in other organizations representing the interests of judges.

SECTION 13. Judges and members of their families shall neither ask for, nor accept, any gift, bequest, loan or favor in relation to anything done or to be done or omitted to be done by him or her in connection with the performance of judicial duties.

SECTION 14. Judges shall not knowingly permit court staff or others subject to their influence, direction or authority, to ask for, or accept, any gift, bequest, loan or favor in relation to anything done or to be done or omitted to be done in connection with their duties or functions.

SECTION 15. Subject to law and to any legal requirements of public disclosure, judges may receive a token gift, award or benefit as appropriate to the occasion on which it is made provided that such gift, award or benefit might not reasonably be perceived as intended to influence the judge in the performance of judicial duties or otherwise give rise to an appearance of partiality

Propriety

- By the very nature of the bench, judges, more than the average man, are required to observe an exacting standard of morality and decency. The character of a judge is perceived by the people not only through his official acts but also through his private morals as reflected in his external behavior.
 - It is therefore paramount that a judge's personal behavior both in the performance of his duties and his daily life, be free from the appearance of impropriety as to be beyond reproach (*Dela Cruz v Bersamira*).

- The prestige of a judicial office shall not be used or lent to advance the private interests of others, nor should a judge permit others to convey the impression that they are in a special position to influence the judge. In all activities, a judge should avoid impropriety and be scrupulously careful to avoid actions that may reasonably tend to awaken suspicion that their social or business relations unduly influence their judicial course.
 - Thus, the court disciplined a judge who merely attended a barangay conciliation proceedings, holding that interference in pending disputes before other courts subverts the independence of the judiciary and compromises public faith in its integrity and impartiality (*Marces v. Arcangel*).
- In *In re Ong*, the court noted that as a subject of constant public scrutiny, judges must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. Because magistrates are under constant public scrutiny, the termination of a case will not deter public criticisms for acts which may cast suspicion on its disposition or resolution.
 - Thus, a Sandiganbayan justice was disciplined when a photo of him with Jinggoy Estrada and Janet Napoles surfaced.
 - Judges must, at all times, be beyond reproach and should avoid even the mere suggestion of partiality and impropriety.

Canon V: Equality

Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

SECTION 1. Judges shall be aware of, and understand, diversity in society and differences arising from various sources, including but not limited to race, color, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes.

SECTION 2. Judges shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.

SECTION 3. Judges shall carry out judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and judicial colleagues, without differentiation on any irrelevant ground, immaterial to the proper performance of such duties.

SECTION 4. Judges shall not knowingly permit court staff or others subject to his or her influence, direction or control to differentiate between persons concerned, in a matter before the judge on any irrelevant ground.

SECTION 5. Judges shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds, except such as are legally relevant to an issue in proceedings and may be the subject of legitimate advocacy.

Equality

- Thus, the court disciplined a judge who persistently solicited sexual favors from his court staff; when they refused, he made their working conditions so unbearable, that one was eventually forced to transfer to another office and the other resigned.
 - In short, imbalance of power. Judge Pacuribot has moral ascendancy and authority over complainants, who are mere employees of the court of which he is an officer. His actuations are aggravated by the fact that complainants are his subordinates over whom he exercises control and supervision. He took advantage of his position and power in order to carry out his lustful and lascivious desires (*Tan v. Pacuribot*).

- The court also disciplined a judge who told female counsels to “open [her] arms and legs.”
 - In *Guanzon v. Rufon*: Judicial decorum requires a magistrate to be at all times temperate in his language, refraining from inflammatory or excessive rhetoric or from resorting to language of vilification. It is very essential that they live up to the high standards.

Canon VI: Competence and Diligence

Competence and diligence are prerequisites to the due performance of judicial office.

SECTION 1. The judicial duties of a judge take precedence over all other activities.

SECTION 2. Judges shall devote their professional activity to judicial duties, which include not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court's operations.

SECTION 3. Judges shall take reasonable steps to maintain and enhance their knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges.

SECTION 4. Judges shall keep themselves informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms.

SECTION 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

SECTION 6. Judges shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, witnesses, lawyers and others with whom the judge deals in an official capacity. Judges shall require similar conduct of legal representatives, court staff and others subject to their influence, direction or control.

SECTION 7. Judges shall not engage in conduct incompatible with the diligent discharge of judicial duties.

Competence and diligence

- A judge will be disciplined if he does not render decisions within the statutory (or constitutional) period (*Castro v. Malazo*). See PHIL. CONST. art. VIII, § 15.
- Courts will only succeed in their tasks if the judges presiding over them are truly honorable men, competent and independent. Thus, even if a judge is found to have an impressive academic background and achievements, they are not fit for their position if they are not competent and impartial.
 - The expectations concerning judicial behavior are more than those expected of other public officials. Judges are seen as guardians of the law and they must thus identify themselves with the law to an even greater degree than legislators or executives.
 - Thus, the court dismissed a judge who believes in *duwende*, calling him “unfit to discharge the functions of his office” (*OCA v. Hon. Floro*). 🍄

End of course.