

Professional Conduct for Practitioners: 8 CFR § 1003.102 - Grounds.

§ 1003.102 Grounds.

It is deemed to be in the public interest for an adjudicating official or the [Board](#) to impose disciplinary sanctions against any practitioner who falls within one or more of the categories enumerated in this section, but these categories do not constitute the exclusive grounds for which disciplinary sanctions may be imposed in the public interest. Nothing in this regulation should be read to denigrate the practitioner's duty to represent zealously his or her client within the bounds of the law. A practitioner who falls within one of the following categories shall be subject to disciplinary sanctions in the public interest if he or she:

(a) Charges or receives, either directly or indirectly:

(1) In the case of an [attorney](#), any fee or compensation for specific [services](#) rendered for any person that shall be deemed to be grossly excessive. The factors to be considered in determining whether a fee or compensation is grossly excessive include the following: The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal [service](#) properly; the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the [attorney](#); the fee customarily charged in the locality for similar legal services; the amount involved and the results obtained; the time limitations imposed by the client or by the circumstances; the nature and length of the professional relationship with the client; and the experience, reputation, and ability of the [attorney](#) or [attorneys](#) performing the services,

(2) In the case of an accredited [representative](#) as defined in [§ 1292.1\(a\)\(4\)](#) of this chapter, any fee or compensation for specific [services](#) rendered for any person, except that an accredited [representative](#) may be regularly compensated by the organization of which he or she is an accredited [representative](#), or

(3) In the case of a law student or law graduate as defined in [§ 1292.1\(a\)\(2\)](#) of this chapter, any fee or compensation for specific [services](#) rendered for any person, except that a law student or law graduate may be regularly compensated by the organization or firm with which he or she is associated as long as he or she is appearing without direct or indirect remuneration from the client he or she represents;

(b) Bribes, attempts to bribe, coerces, or attempts to coerce, by any means whatsoever, any person (including a party to a case or an officer or employee of the Department of Justice) to commit any [act](#) or to refrain from performing any [act](#) in connection with any case;

(c) Knowingly or with reckless disregard makes a false statement of material fact or law, or willfully misleads, misinforms, threatens, or deceives any person (including a party to a case or an officer or employee of the Department of Justice), concerning any material and relevant matter relating to a case, including knowingly or with reckless disregard offering false evidence. If a practitioner has offered material evidence and comes to know of its falsity, the practitioner shall take appropriate remedial measures;

(d) Solicits professional employment, through in-person or live telephone contact or through the use of runners, from a prospective client with whom the practitioner has no family or prior professional relationship, when a significant motive for the practitioner's doing so is the practitioner's pecuniary gain. If the practitioner has no family or prior professional relationship with the prospective client known to be in need of legal [services](#) in a particular matter, the practitioner must include the words "Advertising Material" on the outside of the envelope of any written communication and at the beginning and ending of any recorded communication. Such advertising material or similar solicitation documents may not be distributed by any person in or around the premises of any building in which an Immigration Court is located;

(e) Is subject to a final order of disbarment or suspension, or has resigned while a disciplinary investigation or proceeding is pending;

(f) Knowingly or with reckless disregard makes a false or misleading communication about his or her qualifications or services. A communication is false or misleading if it:

(1) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading, or,

(2) Contains an assertion about the practitioner or the practitioner's qualifications or [services](#) that cannot be substantiated. A practitioner shall not state or imply that the practitioner has been recognized or certified as a specialist in immigration or nationality law unless such certification is granted by the appropriate State regulatory authority or by an organization that has been approved by the appropriate State regulatory authority to grant such certification. An accredited [representative](#) shall not state or imply that the accredited representative:

(i) Is approved to [practice](#) before the Immigration Courts or the [Board](#), if the [representative](#) is only approved as an accredited [representative](#) before [DHS](#);

(ii) Is an accredited [representative](#) for an organization other than a recognized organization through which the [representative](#) acquired accreditation; or

(iii) Is an [attorney](#).

(g) Engages in contumelious or otherwise obnoxious conduct, with regard to a case in which he or she [acts](#) in a [representative](#) capacity, which would constitute contempt of court in a judicial proceeding;

(h) Has been found guilty of, or pleaded guilty or *nolo contendere* to, a serious crime, in any court of the United States, or of any state, possession, territory, commonwealth, or the District of Columbia. A serious crime includes any felony and also includes any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, dishonesty, bribery, extortion, misappropriation, theft, or an attempt, or a conspiracy or solicitation of another, to commit a serious crime. A plea or

verdict of guilty or a conviction after a plea of *nolo contendere* is deemed to be a conviction within the meaning of this section;

(i) Knowingly or with reckless disregard falsely certifies a copy of a document as being a true and complete copy of an original;

(j) Engages in frivolous behavior in a proceeding before an Immigration Court, the [Board](#), or any other administrative appellate body under title II of the [Immigration and Nationality Act](#), provided:

(1) A practitioner engages in frivolous behavior when he or she knows or reasonably should have known that his or her actions lack an arguable basis in law or in fact, or are taken for an improper purpose, such as to harass or to cause unnecessary delay. Actions that, if taken improperly, may be subject to disciplinary sanctions include, but are not limited to, the making of an argument on any factual or legal question, the submission of an application for discretionary relief, the [filing](#) of a motion, or the [filing](#) of an appeal. The signature of a practitioner on any [filing](#), application, motion, appeal, brief, or other document constitutes certification by the signer that the signer has read the [filing](#), application, motion, appeal, brief, or other document and that, to the best of the signer's knowledge, information, and belief, formed after inquiry reasonable under the circumstances, the document is well-grounded in fact and is warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, and is not interposed for any improper purpose.

(2) The imposition of disciplinary sanctions for frivolous behavior under this section in no way limits the authority of the [Board](#) to dismiss an appeal summarily pursuant to [§ 1003.1\(d\)](#);

(k) Engages in conduct that constitutes ineffective assistance of counsel, as previously determined in a finding by the [Board](#), an [immigration judge](#) in an immigration proceeding, or a Federal court judge or panel, and a disciplinary complaint is filed within one year of the finding;

(l) Repeatedly fails to appear for pre-hearing conferences, scheduled hearings, or case-related meetings in a timely manner without good cause;

(m) Assists any person, other than a practitioner as defined in [§ 1003.101\(b\)](#), in the performance of activity that constitutes the unauthorized [practice](#) of law. The [practice](#) of law before EOIR means engaging in *practice* or *preparation* as those terms are defined in [§§ 1001.1\(i\) and \(k\)](#);

(n) Engages in conduct that is prejudicial to the administration of justice or undermines the integrity of the adjudicative process. Conduct that will generally be subject to sanctions under this ground includes any action or inaction that seriously impairs or interferes with the adjudicative process when the practitioner should have reasonably known to avoid such conduct;

(o) Fails to provide competent [representation](#) to a client.

Competent [representation](#) requires the legal knowledge, skill, thoroughness, and [preparation](#) reasonably necessary for the [representation](#). Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners;

(p) Fails to abide by a client's [decisions](#) concerning the objectives of [representation](#) and fails to consult with the client as to the means by which they are to be pursued, in accordance with [paragraph \(r\)](#) of this section. A practitioner may take such action on behalf of the client as is impliedly authorized to carry out the [representation](#);

(q) Fails to [act](#) with reasonable diligence and promptness in representing a client.

(1) A practitioner's workload must be controlled and managed so that each matter can be handled competently.

(2) A practitioner has the duty to [act](#) with reasonable promptness. This duty includes, but shall not be limited to, complying with all time and [filing](#) limitations. This duty, however, does not preclude the practitioner from agreeing to a reasonable request for a postponement that will not prejudice the practitioner's client.

(3) A practitioner should carry through to conclusion all matters undertaken for a client, consistent with the scope of [representation](#) as previously determined by the client and practitioner, unless the client terminates the relationship or the practitioner obtains permission to withdraw in compliance with applicable rules and regulations. If a practitioner has handled a proceeding that produced a result adverse to the client and the practitioner and the client have not agreed that the practitioner will handle the matter on appeal, the practitioner must consult with the client about the client's appeal rights and the terms and conditions of possible [representation](#) on appeal;

(r) Fails to maintain communication with the client throughout the duration of the client-practitioner relationship. It is the obligation of the practitioner to take reasonable steps to communicate with the client in a language that the client understands. A practitioner is only under the obligation to attempt to communicate with his or her client using addresses or phone numbers known to the practitioner. In order to properly maintain communication, the practitioner should:

(1) Promptly inform and consult with the client concerning any [decision](#) or circumstance with respect to which the client's informed consent is reasonably required;

(2) Reasonably consult with the client about the means by which the client's objectives are to be accomplished. Reasonable consultation with the client includes the duty to meet with the client sufficiently in advance of a hearing or other matter to ensure adequate [preparation](#) of the client's case and compliance with applicable deadlines;

(3) Keep the client reasonably informed about the status of the matter, such as significant developments affecting the [timing](#) or the substance of the [representation](#); and

(4) Promptly comply with reasonable requests for information, except that when a prompt **response** is not feasible, the practitioner, or a member of the practitioner's staff, should acknowledge receipt of the request and advise the client when a *response* may be expected;

(s) Fails to disclose to the adjudicator legal authority in the controlling jurisdiction known to the practitioner to be directly adverse to the position of the client and not disclosed by opposing counsel;

(t) Fails to submit a signed and completed Notice of Entry of Appearance as [Attorney](#) or [Representative](#) in compliance with applicable rules and regulations when the practitioner:

(1) Has engaged in **practice** or *preparation* as those terms are defined in [§§ 1001.1\(i\) and \(k\)](#), and

(2) Has been deemed to have engaged in a pattern or [practice](#) of failing to submit such forms, in compliance with applicable rules and regulations. Notwithstanding the foregoing, in each case where the [respondent](#) is represented, every pleading, application, motion, or other [filing](#) shall be signed by the practitioner of record in his or her individual name;

(u) Repeatedly files notices, motions, briefs, or claims that reflect little or no attention to the specific factual or legal issues applicable to a client's case, but rather rely on boilerplate language indicative of a substantial failure to competently and diligently represent the client; or

(v) [Acts](#) outside the scope of the [representative](#)'s approved authority as an accredited [representative](#).

[[65 FR 39526](#), June 27, 2000, as amended at [73 FR 76923](#), Dec. 18, 2008, [81 FR 92362](#), Dec. 19, 2016]