

Rules on standards of professional (Chapter II, Part VI of the BCI Rules)

Chapter - II

Standards of Professional Conduct and Etiquette

(Rules under Section 49 (1) (c) of the Act read with the Proviso thereto)

Preamble

An advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and moral for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity may still be improper for an advocate. Without prejudice to the generality of the foregoing obligation, an advocate shall fearlessly uphold the interests of his client and in his conduct conform to the rules hereinafter mentioned both in letter and in spirit. The rules hereinafter mentioned contain canons of conduct and etiquette adopted as general guides; yet the specific mention thereof shall not be construed as a denial of the existence of others equally imperative though not specifically mentioned.

1. Section I - Duty to the Court

An advocate shall, during the presentation of his case and while otherwise acting before a court, conduct himself with dignity and self-respect. He shall not be servile and whenever there is proper ground for serious complaint against a judicial officer, it shall be his right and duty to submit his grievance to proper authorities.

2. An advocate shall maintain towards the courts a respectful attitude, bearing in mind that the dignity of the judicial office is essential for the survival of a free community.
3. An advocate shall not influence the decision of a court by any illegal or improper means. Private communications with a judge relating to a pending case are forbidden.
4. An advocate shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practices or from doing anything in relation to the court, opposing counsel or parties which the advocates himself ought not to do. An advocate shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouth-piece of the client, and shall exercise his own judgment in the use of restrained language in correspondence, avoiding scurrilous attacks in pleadings, and using intemperate language during arguments in court.
5. An advocate shall appear in court at all times only in the prescribed dress, and his appearance shall always be presentable.
6. An advocate shall not enter appearance, act, plead or practise in any way before a court, Tribunal or Authority mentioned in Section 30 of the Act, if the sole or any member thereof is related to the advocate as father, grandfather, son, grand-son, uncle, brother, nephew, first cousin, husband, wife, mother, daughter, sister, aunt, niece, father-in-law, mother-in-law, son-in-law, brother-in-law daughter-in-law or sister-in-law.

For the purposes of this rule, Court shall mean a Court, Bench or Tribunal in which above mentioned relation of the Advocate is a Judge, Member or the Presiding Officer.

7. An advocate shall not wear bands or gown in public places other than in courts except on such ceremonial occasions and at such places as the Bar Council of India or the court may prescribe.
8. An advocate shall not appear in or before any court or tribunal or any other authority for or against an organisation or an institution, society or corporation, if he is a member of the Executive Committee of such organisation or institution or society or corporation. "Executive Committee", by whatever name it may be called, shall include any Committee or body of persons which, for the time being, is vested with the general management of the affairs of the organisation or institution, society or corporation.
Provided that this rule shall not apply to such a member appearing as "amicus curiae" or without a fee on behalf of a Bar Council, Incorporated Law Society or a Bar Association.
9. An Advocate should not act or plead in any matter in which he is himself pecuniarily interested.

Illustration :

- I. He should not act in a bankruptcy petition when he himself is also a creditor of the bankrupt.
- II. He should not accept a brief from a company of which he is a Director.

10. An Advocate shall not stand as a surety, or certify the soundness of a surety for his client required for the purpose of any legal proceedings.

Dt. of this Rules 16-2-91 Proviso added by resolution no 11/91

11. **Section II Duty to the Client**

An advocate is bound to accept any brief in the Courts or Tribunals or before any other authorities in or before which he proposes to practice at a fee consistent with his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief.

12. An advocate shall not ordinarily withdraw from engagements, once accepted, without sufficient cause and unless reasonable and sufficient notices is given to the client. Upon his withdrawal from a case, he shall refund such part of the fee as has not been earned.
13. An advocate should not accept a brief or appear in a case in which he has reason to believe that he will be a witness, and if being engaged in a case, it becomes apparent that he is a witness on a material question of fact, he should not continue to appear as an Advocate if he can retire without jeopardising his client's interests.
14. An advocate shall at the commencement of his engagement and during the continuance thereof, make all such full and frank disclosure to his client relating to his connection with the parties and any interest in or about the controversy as are likely to affect his client's judgement in either engaging him or continuing the engagement.
15. It shall be the duty of an advocate fearlessly to uphold the interests of his client by all fair and honourable means without regard to any unpleasant consequences to himself or any other. He shall defend a person accused of a crime regardless of his personal opinion

as to the guilt of the accused, bearing in mind that his loyalty is to the law which requires that no man should be convicted without adequate evidence.

16. An advocate appearing for the prosecution of a criminal trial shall so conduct the prosecution that it does not lead to conviction of the innocent. The suppression of material capable of establishing the innocence of the accused shall be scrupulously avoided.
17. An advocate shall not, directly or indirectly, commit a breach of the obligations imposed by Section 126 of the Indian Evidence Act.
18. An advocate shall not, at any time, be a party to fomenting of litigation.
19. An advocate shall not act on the instructions of any person other than his client or his authorised agent.
20. **An advocate shall not stipulate for a fee contingent on the results of litigation or agree to share the proceeds thereof.**
21. **An advocate shall not buy or traffic in or stipulate for or agree to receive any share or interest in any actionable claim. Nothing in this rule shall apply to stock, shares and debentures of government securities, or to any instruments which are, for the time being, by law or custom, negotiable or to any mercantile document of title to goods.**
22. An advocate shall not, directly or indirectly, bid for or purchase, either in his own name or in any other name, for his own benefit or for the benefit of any other person, any property sold in the execution of a decree or order in any suit, appeal or other proceeding in which he was in any way professionally engaged. This prohibition, however, does not prevent an advocate from bidding for or purchasing for his client any property which his client may himself legally bid for or purchase, provided the Advocate is expressly authorised in writing in this behalf.

22A. An advocate shall not directly or indirectly bid in court auction or acquire by way of sale, gift, exchange or any other mode of transfer either in his own name or in any other name for his own benefit or for the benefit of any other person any property which is subject matter of any suit appeal or other proceedings in which he is in any way professionally engaged.
23. **An advocate shall not adjust fee payable to him by his client against his own personal liability to the client, which liability does not arise in the course of his employment as an advocate.**
24. An advocate shall not do anything whereby he abuses or takes advantage of the confidence reposed in him by his client.
25. An advocate should keep accounts of the client's money entrusted to him, and the accounts should show the amounts received from the client or on his behalf, the expenses incurred for him and the debits made on account of fees with respective dates and all other necessary particulars.
26. **Where moneys are received from or on account of a client, the entries in the accounts should contain a reference as to**

whether the amounts have been received for fees or expenses and during the course of the proceeding, no advocates shall, except with the consent in writing of the client concerned, be at liberty to divert any portion of the expenses towards fees.

27. **Where any amount is received or given to him on behalf of his client, the fact of such receipt must be intimated to the client, as early as possible.**

28. After the termination of the proceeding, the advocate shall be at liberty to appropriate towards the settled fee due to him, any sum remaining unexpended out of the amount paid or sent to him for expenses or any amount that has come into his hands in that proceeding.

29. Where the fee has been left unsettled, the advocate shall be entitled to deduct, out of any moneys of the client remaining in his hands, at the termination of the proceeding for which he had been engaged, the fee payable under the rules of the Court, in force for the time being, or by then settled and the balance, if any, shall be refunded to the client.

30. A copy of the client's account shall be furnished to him on demand provided the necessary copying charge is paid.

31. An advocate shall not enter into arrangements whereby funds in his hands are converted into loans.

32. An advocate shall not lend money to his client for the purpose of any action or legal proceedings in which he is engaged by such client.

Explanation. An advocate shall not be held guilty for a breach of this rule, if in the course of a pending suit or proceeding, and without any arrangement with the client in respect of the same, the advocate feels compelled by reason of the rule of the Court to make a payment to the Court on account of the client for the progress of the suit or proceeding.

33. An advocate who has, at any time, advised in connection with the institution of a suit, appeal or other matter or has drawn pleadings, or acted for a party, shall not act, appear or plead for the opposite party.

Rule 22A came into force w.e.f. 24-9-1998.

34. **Section III - Duty to Opponent**

An advocate shall not in any way communicate or negotiate upon the subject matter of controversy with any party represented by an advocate except through that advocate.

35. An advocate shall do his best to carry out all legitimate promises made to the opposite party even though not reduced to writing or enforceable under the rules of the Court.

36. **Section IV - Duty to Colleagues**

An advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, touts, personal communications, interviews not warranted by personal relations, furnishing or inspiring newspaper comments or producing his

photographs to be published in connection with cases in which he has been engaged or concerned. His sign-board or name-plate should be of a reasonable size. The sign-board or name-plate or stationery should not indicate that he is or has been President or Member of a Bar Council or of any Association or that he has been associated with any person or organisation or with any particular cause or matter or that he specialises in any particular type of worker or that he has been a Judge or an Advocate General.

37. An advocate shall not permit his professional services or his name to be used in aid of, or to make possible, the unauthorised practice of law by any law agency.
38. An advocate shall not accept a fee less than the fee taxable under rules when the client is able to pay the same.
39. An advocate shall not enter appearance in any case in which there is already a vakalat or memo of appearance filed by an advocate engaged for a party except with his consent; in case such consent is not produced he shall apply to the Court stating reasons why the said consent could not be produced and he shall appear only after obtaining the permission of the Court.
. Rule modified by addition of words "in case.....court" w.e.f. 5-6-1976.
40. **Section IV-A**

Every Advocate borne on the rolls of the State Bar Council shall pay to the State Bar Council a sum of Rs. 300/- every third year commencing from 1st August, 2001 along with a statement of particulars as given in the form set out at the end of these Rules, the first payment to be made on or before 1st August, 2001 or such extended time as notified by the Bar Council of India or the concerned State Bar Council.

Provided further however that an advocate shall be at liberty to pay in lieu of the payment of Rs. 300/- every three years a consolidated amount of Rs. 600/- . This will be a life time payment to be kept in the fixed deposit by the concerned State Bar Council and the Bar Council of India at the ratio of 80:20 as envisaged under Rule 41 and interest to be used for the purpose of this rule.

"Out of life payment, 80% of the maount will be retained by the State Bar Council in a fixed deposit and remaining 20% has to be transferred to the Bar Council of India. The Bar Council of India and State Bar Council have to keep the same in a fixed deposit and the interest on the said deposits shall alone be utilized for the Welfare of the Advocates."

Explanation 1 : Statement of particulars as required by rule 40 in the form set out shall require to be submitted only once in three years.

Explanation 2. All Advocates who are in actual practise and are not drawing salary or not in full time service and not drawing salary from their respective employers are only required to pay the amount referred to in this rule.

Explanation 3. This rule will be effective from 1st August, 2001 and for period prior to this, advocates will continue to be covered by old rule.

41. (1) All the sums so collected by the State Bar Council in accordance with Rule 40 shall be credited in a separate fund known as "Bar Council of India Advocates Welfare Fund" and shall be deposited in the bank as provided hereunder.

(2) The Bar Council of India Advocates Welfare Fund Committee for the state shall remit 20% of the total amount collected and credited to its account, to the Bar Council of India by the end of every month which shall be credited by the Bar Council of India and Bar Council of India shall deposit the said amount in separate fund to be known as "Bar council of india advocates welfare fund." This fund shall be managed by the Welfare Committee of the Bar Council of India in the manner prescribed from time to time by the Bar Council of India for the Welfare of Advocates.

(3) The rest 80% of the total sum so collected by the Bar Council of India Advocates Welfare Fund Committee for the State under Rule 41 (1) shall be utilised for the welfare of advocates in respect of Welfare Schemes sponsored by the respective State Bar Councils and this fund shall be administered by the Advocates Welfare Committee for the State which shall submit its report annually to the Bar Council of India.

(4) In case of transfer of an advocate from one State Bar Council to other state Bar Council, 80% of the total sum collected so far in respect of that advocate by the Bar Council of India Advocates Welfare Committee for the State under Rule 41 (1) where the said Advocate was originally enrolled, would get transferred to the Advocates Welfare Fund Committee of the Bar Council of India for the State to which the said Advocate has got himself transferred.

42. If any advocate fails to pay the aforesaid sum within the prescribed time as provided under rule 40, the Secretary of the State Bar Council shall issue to him a notice to show cause within a month why his right to practice be not suspended. In case the advocate pays the amount together with late fee of Rs. 5/- per month, or a part of a month subject to a maximum of Rs. 30/- within the period specified in notice, the proceedings shall be dropped. If the advocate does not pay the amount or fails to show sufficient cause, a Committee of three members constituted by the State Bar Council in this behalf may pass an order suspending the right of the advocate to practise.

Provided that the order of suspension shall cease to be in force when the advocate concerned pays the amount along with a late fee of Rs. 50/- and obtain a certificate in this behalf from the State Bar Council.

43. An Advocate who has been convicted of an offence mentioned under section 24A of the Advocates Act or has been declared insolvent or has taken full time service or part time service or engages in business or any avocation inconsistent with his practising as an advocate or has incurred any disqualification mentioned in the advocates Act or the rules made thereunder, shall send a declaration to that effect to the respective State Bar Council in which the advocate is enrolled, within ninety days from the date of such disqualification. If the advocate does not file the said declaration or fails to show sufficient cause for not filing such declaration provided therefor, the Committee constituted by the State Bar Council under rule 42 may pass orders suspending the right of the advocate to practise.

Provided that it shall be open to the committee to condone the delay on an application being made in this behalf.

Provided further that an advocate who had after the date of his enrolment and before the coming into force of this rule, become subject to any of the disqualifications mentioned in this rule, shall within a period of ninety days of the coming into force of this rule send declaration referred to in this rule to the respective State Bar Council in which the Advocate is enrolled and on failure to do so by such advocate all the provisions of this rule would apply.

44. An appeal shall lie to the Bar Council of India at the instance of an aggrieved advocate within a period of thirty days from the date of the order passed under Rules 42 and 43.

44A. (1) There shall be a Bar Council of India Advocates Welfare Committee, consisting of members elected from amongst the members of the Council. The term of the members of the Committee shall be co-extensive with their term in Bar Council of India.

2 (i) Every State Council shall have an Advocates Welfare Committee known as Bar Council of India Advocates Welfare Committee for the State.

(ii) The Committee shall consist of member Bar Council of India from the State concerned, the Ex-Officio Chairman of the Committee and two members elected from amongst the members of the State Bar Council.

(iii) The Secretary of the State Bar Council concerned will act as Ex-Officio Secretary of the Committee.

(iv) The term of the member, Bar Council of India in the Committee shall be co-extensive with their term in the Bar Council of India.

(v) The term of the members elected from the State Bar Council shall be two years.

(vi) Two members of the Committee will form a quorum of any meeting of the Committee.

(3) Every State Bar Council shall open an account in the name of the Bar Council of India Advocates Welfare Committee for the State, in any nationalised Bank,

(4) No amount shall be withdrawn from the Bank unless that cheque is signed by the Chairman of the Welfare Committee and its Secretary.

(5) The State Bar Council shall implement Welfare Schemes approved by the Bar Council of India Advocates Welfare Committee as constituted under sub-clause (2) (i). The State Bar Council may suggest suitable modifications in the Welfare Schemes or suggest more schemes, but such suggested schemes shall have effect only after approval by the Bar Council of India.

(6) The State Bar Council shall maintain separate account in respect of the Advocates Welfare Fund. The account shall be audited annually along with other accounts of the State Bar Council and send the report with Auditors Report to the Bar Council of India.

Provided that the Bar Council of India Advocates Welfare Fund Committee for the State shall be competent to appoint its own staff in addition to the staff of the Bar Council of the State. The duty to maintain the account of the Fund if their funds are adequate to make such payments, the salary and other conditions of the said staff be determined by the Bar Council of India Advocates Welfare Fund Committee for the State.

Provided further that Chairman of the Bar Council of India Advocates Welfare Fund Committee for the State shall be competent to make temporary appointment for a period not exceeding three months for any transaction if the situation so requires subject to availability of fund in the said Committee. * such appointment.

44B. The Bar Council of India shall utilise the funds received under Rule 41(2) in accordance with the provisions of this rule.

schemes which may be framed from time to time.

Section 4A : Revised rules came into effect from 1-4-1984 (Rules 47 to 54 re-numbered)
Sub-rule(4) of Rule 41 came into force w.e.f. 3-11-1995.
Amended vide Resolution No. 78 of 1985 dated 27th and 28th July, 1985.
Came into force w.e.f. 10th Feb. 1996 (Resolution No. 25/96)
Rules framed for Scheme No. IV are given separately.

Form under rule 40

Bar Council of

Dear Sirs,

(1) I am enclosing herewith a Postal order/Bank Draft/Cash for
under Rule 40. Chapter II, Part VI of the Rules of the Bar Council of India.

(2) I am enrolled as an Advocate on the Rolls of your State Bar Council.

(3) I am ordinarily practising at in the territory
.....

(4) I am a member of the Bar Association/not a member of
Association.

(5) My present address is

Dated
Signature
Place
Name in block letters

Enrolment no

Received a sum of Rs. 30/- (Rs. 90/- Rs.300) Rs. 300/- from to
Rule 40, Chapter II, Part VI of the Rules of the Bar Council of India by way of Postal
Draft/Cash on

Dated:
Secretary
Place:
.....

45.

Scheme for Financial Assistance to state Bar Councils and individuals under Rule 44B of The Bar Council of India Rules

1. These rules shall be known as the Scheme for Financial Assistance to the State Bar Councils under Rule 44B of the Bar Council of India Rules.
2. The Scheme shall come into force immediately.

3. These schemes shall be applicable to only such State Bar Councils which have remitted the sum in accordance with the Rule 41 (2) of the Bar Council of India.
4. That on receiving information from the Chairman of the State Bar Council or Member, Bar Council of India from that State, the Chairman, Bar Council of India on being satisfied by such report may immediately sanction a reasonable amount not exceeding Rs. 10,000/- in an individual case and Rs. 25,000/- in case of some calamity involving more than one advocate and shall report to the Advocates Welfare Committee of the Bar Council of India. The financial assistance to the State Bar Councils will be available in any of the following cases : —
 - (a) The advocate or advocates have suffered seriously on account of some natural calamity or ;
 - (b) the advocate or a advocates have died an unnatural death, due to an accident or natural calamity or any other cause of like nature, or;
 - (c) the advocate or advocates have suffered or is suffering from such serious disease or illness which is likely to cause death if no proper treatment is given and the advocate requires financial assistance without which he would not be able to get proper treatment and has no personal assets except a residential house to meet such expenditures, or;
 - (d) the advocate or advocates become physically disabled or incapacitated to continue his profession on account of natural calamity or accident or any other cause of like nature.
5. That the amount sanctioned under rule 4 shall be placed at the disposal of the Advocates Welfare Committee of the Bar Council of India for the State and the said State Committee shall maintain separate account and send the same to the Bar Council of India within three months from the date of the receipt thereof.
6. That the Advocates Welfare Committee of the bar Council of India on receiving such applications duly recommended by the State Bar Councils, may sanction a sum provided in the different schemes prepared by the Bar Council of India.

46. **Section V-Duty in imparting training**

It is improper for an advocate to demand or accept fees or any premium from any person as a consideration for imparting training in law under the rules prescribed by State Bar Council to enable such person to qualify for enrolment under the Advocates Act, 1961.

47. **Section VI-Duty to Render Legal Aid**

Every advocate shall in the practice of the profession of law bear in mind that any one genuinely in need of a lawyer is entitled to legal assistance even though he cannot pay for it fully or adequately and that within the limits of an Advocate's economic condition, free legal assistance to the indigent and oppressed is one of the highest obligations an advocate owes to society.

48. **Section VII-Restriction on other Employments**

An advocate shall not personally engage in any business; but he may be a sleeping partner in a firm doing business provided that in the opinion of the appropriate State Bar Council, the nature of the business is not inconsistent with the dignity of the profession.

49. An advocate may be Director or Chairman of the Board of Directors of a company with or without any ordinarily sitting fee, provided none of his duties are of an executive character. An advocate shall not be a Managing Director or a Secretary of any company.

50. An advocate shall not be a full-time salaried employee of any person, government, firm, corporation or concern, so long as he continues to practise, and shall, on taking up any such employment, intimate the fact to the Bar Council on whose roll his name appears and shall thereupon cease to practise as an advocate so long as he continues in such employment.

**Nothing in this rule shall apply to a Law Officer of the Central Government of a State or of any Public Corporation or body constituted by statute who is entitled to be enrolled under the rules of his State Bar Council made under Section 28 (2) (d) read with Section 24 (1) (e) of the Act despite his being a full time salaried employee.

**Law Officer for the purpose of these Rules means a person who is so designated by the terms of his appointment and who, by the said terms, is required to act and/or plead in Courts on behalf of his employer.

** The above second and third paras deleted in June, 2001 meeting vide Resolution No.65/2001.

Resolution No. 156/2001

"RESOLVED and further clarified that as Supreme Court has struck down the appearance by Law Officers in Court even on behalf of their employers the Judgement will operate in the case of all law officers. Even if they were allowed to appear on behalf of their employers all such Law Officers who are till now appearing on behalf of their employers shall not be allowed to appear as advocates. The State Bar Council should also ensure that those Law Officers who have been allowed to practise on behalf of their employers will cease to practise. It is made clear that those Law Officers who after joining services obtained enrolment by reason of the enabling provision cannot practise even on behalf their employers."

Resolution No. 113/2002

"RESOLVED that the Bar Council of India is of the view that if the said officer is a whole time employee drawing regular salary, he will not be entitled to be enrolled as an advocate. If the terms of employment show that he is not in full time employment he can be enrolled."

51. An advocate who has inherited, or succeeded by survivorship to a family business may continue it, but may not personally participate in the management thereof. He may continue to hold a share with others in any business which has decended to him by survivorship or

inheritance or by will, provided he does not personally participate in the management thereof.

52. An advocate may review Parliamentary Bills for a remuneration, edit legal text books at a salary, do press-vetting for newspapers, coach pupils for legal examination, set and examine question papers; and subject to the rules against advertising and full-time employment, engage in broadcasting, journalism, lecturing and teaching subjects, both legal and non-legal.
53. Nothing in these rules shall prevent an advocate from accepting after obtaining the consent of the State Bar Council, part-time employment provided that in the opinion of the State Bar Council, the nature of the employment does not conflict with his professional work and is not inconsistent with the dignity of the profession. This rule shall be subject to such directives if any as may be issued by the Bar Council India from time to time.