

ADVOCATES CODE OF CONDUCT

RULE 1. COMPETENCE.

Advocates shall provide competent representation to a client. Competent legal representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

RULE 2. SCOPE OF REPRESENTATION.

Advocates shall abide by a client's wishes concerning the goals of legal representation and shall consult with the client concerning the means of pursuing those goals. Advocates should not pursue legal goals without their client's approval, nor should they assist a client in criminal or fraudulent activity.

RULE 3. DILIGENCE.

Advocates shall act with reasonable diligence and promptness in representing a client. Unless the client agrees to modify the scope of representation, the advocate shall complete all matters undertaken on the client's behalf.

RULE 4. COMMUNICATION.

Advocates shall keep a client well informed and shall respond promptly to requests for information. Advocates must fulfill reasonable client requests for information in order to help the client make decisions about his or her case.

RULE 5. FEES.

(a) **Reasonableness of Fees.** Advocate's fees shall be reasonable. The determination of reasonable fees should include the following considerations:

- (1) experience and ability of the advocate providing the legal services;
- (2) time and skill involved in performing the service; and
- (3) fee customarily charged in surrounding communities for similar services.

(b) **Contingency fees.** A fee may be contingent on the outcome of the representation. A contingent fee agreement should, however, be in writing and state the method by which it shall be calculated. Advocates shall not enter into a fee arrangement contingent upon securing a divorce or upon the amount of support or property settlement thereof. An Advocate may not enter into a contingent fee arrangement for the representation of a defendant in a criminal case.

RULE 6. CONFIDENTIALITY OF INFORMATION.

Advocates shall not reveal information communicated by a client. Advocates may, however, reveal information to the extent the advocate reasonably believes necessary to prevent a client from committing a criminal act likely to result in death or serious bodily

harm. Advocates may also reveal information necessary to allegations in any proceedings concerning the advocate's representation of a client.

RULE 7. CONFLICT OF INTEREST.

(a) Advocates should not represent a client if that representation will be adverse to the interests of another client, or if the advocate's own interests conflict with those of a client, unless:

- (1) advocate reasonably believes the representation will not adversely affect his or her ability to represent each client fully and competently; and
- (2) each client consents after disclosure and consultation.

Examples of conflict of interest between clients include but are not limited to: representing opposing parties in litigation, representing more than one defendant in a criminal case, and representing a client against a party who is a client in another case, even if the two cases are unrelated.

Examples of conflicts of interest between a lawyer and client include but are not limited to: entering into any business transaction with a client, and acquiring any financial interest adverse to the client.

(b) Advocates who have formerly represented a client shall not thereafter represent another client in a related matter in which that client's interest are adverse to the interests of the former client, unless the former client consents after consultation.

(c) Advocates shall not represent a client in a matter in which that advocate served as a judge, arbitrator, peacemaker, or mediator without the consent of all parties to the proceeding.

RULE 8. CLIENT UNDER DISABILITY.

When advocates believes a client is incapable of acting in his or her own best interests, the advocate shall seek the appointment of a guardian for the client. Otherwise, the advocate shall, as far as practicable, maintain a normal advocate-client relationship with the client.

RULE 9. SAFEKEEPING PROPERTY.

A client's property held by advocates in connection with representation of that client shall be kept separate from the advocate's own property. Funds shall also be kept in separate accounts.

RULE 10. DECLINING OR TERMINATING REPRESENTATION.

(a) Advocates shall terminate representation if a client requests that the advocate engage

in illegal or fraudulent conduct or conduct that violates these Rules of conduct.

(b) Advocates may withdraw from representing a client if withdrawal can be accomplished without adversely affecting the client's interests, or if:

- (1) the client fails substantially to meet an obligation to the advocate regarding the advocate's services and the client has been notified that the advocate will withdraw if the obligation is not met;
- (2) the representation will result in an unreasonable financial burden on the advocate or has been made unreasonably difficult by the client; or
- (3) other good cause for withdrawal exists.

(c) When the advocate is representing the client in a court matter, withdrawal can only be accomplished upon motion to the court. When ordered by a court of the Nooksack Indian Tribe to continue representation, advocates shall do so despite good cause for terminating the representation. If termination of representation is granted, advocates shall take reasonable steps to protect the client's interests. Such steps include giving reasonable notice and time to appoint new counsel, as well as surrendering papers and property to which the client is entitled.

RULE 11. ADVICE AND MERITORIOUS CLAIMS.

When representing a client, advocates shall give candid advice based on his or her best professional judgment. Advocates shall not raise or controvert issues without a substantial basis for doing so.

RULE 12. EXPEDITING LITIGATION.

Advocates shall make reasonable effort to expedite litigation consistent with a client's interests. Advocates shall not engage in delay tactics designed solely to frustrate the opposing party's attempt to obtain a legal remedy.

RULE 13. HONESTY TOWARD THE COURTS OF THE NOOKSACK INDIAN TRIBE.

Advocates shall act with honesty toward the courts of the Nooksack Indian Tribe. Advocates shall not knowingly make false statements to the court or knowingly offer false evidence. Nor shall advocates fail to disclose significant legal authority directly adverse to his or her client's position.

RULE 14. GHOSTWRITING.

Any advocate who prepares a pleading for an otherwise pro se litigant must disclose such assistance, including the phrase "Prepared with Assistance of Counsel" on the pleading, and identifying the advocate. Ghostwriting that represents a pleading to be pro se when it is in fact a product of the advocate is a deception on the court.

RULE 15. FAIRNESS TO OPPOSING PARTY.

Advocates shall act in a manner of fairness to the opposing party. In order that fair access to evidence is maintained, advocates shall not:

- (a) destroy or conceal evidence, including documents or other materials of possible evidentiary value;
- (b) falsify existing evidence or create new evidence; or
- (c) Influence a witness to give false or misleading testimony.

RULE 16. IMPARTIALITY AND DECORUM OF THE NOOKSACK INDIAN TRIBE'S COURTS.

Advocates shall not attempt to influence a judge or juror sitting on his or her case other than through authorized legal means. Advocates shall not privately confer with a judge concerning any case before that judge. Nor shall advocates meet with a juror or prospective juror in a case that advocate is handling.

RULE 17. CONDUCT BEFORE THE NOOKSACK INDIAN TRIBES COURTS.

Advocates shall act with respect and courtesy toward the courts of the Nooksack Indian Tribe. This requires that advocates comply with rules established by the court for courtroom demeanor and procedure.

RULE 18. ADVOCATE AS WITNESS.

Advocates shall not act as an advocate at a trial in which the advocate is likely to be a necessary witness except where:

- (a) testimony relates to an uncontested issue;
- (b) testimony relates to the nature and value of legal services rendered in the case;
- or
- (c) disqualification of the advocate would substantially burden the client.

RULE 19. COMMUNICATION WITH PERSON REPRESENTED BY ADVOCATE.

When representing a client, advocates shall not communicate about that representation with a party the advocate knows to be represented by another advocate in the same proceeding, unless the advocate has that advocate's consent.

RULE 20. COMMUNICATIONS CONCERNING ADVOCATE'S SERVICES.

Advocates shall not make false or misleading statements about his or her services. A communication is false or misleading if it contains a material misrepresentation of fact or law or is likely to create unreasonable expectations about the results advocates can achieve.

RULE 21. SOLICITING CLIENTS.

Advocates shall not solicit employment from a prospective client through direct communications. Apart from family members, it is unethical for advocates to contact in person, by phone, or by mail prospective clients for the purpose of persuading them to accept legal assistance. This does not include mailings to persons not known who might request legal services. Such mailings may only give general information about advocate's services. Advocates may advertise through public media such as telephone directories, newspapers, and television.

RULE 22. VIOLATION OF ADVOCATES OATH.

All advocates must comply with the Advocate's Code of Conduct as established by Tribal Council. Whenever the Tribal Council or the Tribal Court becomes aware that any advocate's behavior and/or practices reflect so poorly upon the proper administration of justice before the Nooksack Tribal Court of the Nooksack Indian Tribe, the Tribal Council or the Tribal Court may revoke any privileges provided to such person(s) and bar them from further practice in any administrative tribunal before the Nooksack Indian Tribe or proceeding before the Nooksack Tribal Courts. Tribal Council or the Tribal Court may hold such hearings as necessary to ensure that such behavior and/or practices are proven; or, as may be necessary to correct such past behavior and/or practices.