
**DISTRICT OF COLUMBIA BAR
RULES OF PROFESSIONAL
CONDUCT REVIEW COMMITTEE**

**PROPOSED AMENDMENTS
TO SELECTED RULES
OF THE
D.C. RULES OF PROFESSIONAL CONDUCT**

The views expressed herein are those of the Committee
and not those of the D.C. Bar or its Board of Governors.

FEBRUARY 2019 (REPORT FOR PUBLIC COMMENT)

**Members
of the District of Columbia Bar
Rules of Professional Conduct Review Committee**

Marina S. Barannik, Chair	Laura E. Hankins
Thomas B. Mason, Vice Chair	Eric L. Hirschhorn
Kathleen Clark	Stacy M. Ludwig
Rachel Cotton	Victoria S. Nugent
Yaida O. Ford	Steven C. Tabackman
German A. Gomez	Charles “Rick” Talisman
	Steuart Thomsen

This report reflects the work of the Rules Review Committee beginning in January 2013. The following individuals served as members of the Committee at some point during the consideration of issues and/or recommendations presented in this report in whole or in part.

Alison Doyle	Narda Newby
Jerri Dunston	Mindy Rattan
Ellen Efros	Paul Rosenzweig
Lauren Greenberg	Anne Scott
Julia Leighton	Michael Sundermeyer
Peter Morgan	Jonathan K. Tykco

3.8 and Comments that are more closely aligned with Model Rules 3.8(g) and (h), but with some significant differences.

D. ABA Model Rule 8.4(g) (Nondiscrimination and Antiharassment)

In August 2016, the ABA House of Delegates adopted Model Rule 8.4(g) to prohibit discrimination and harassment in conduct related to the practice of law. Twenty-five jurisdictions, including the District, already had ethics rules dealing with discrimination and/or harassment in some form at the time of the Model Rule's adoption. D.C. Rule 9.1, which became effective in 1991, prohibits discrimination by lawyers in conditions of employment based on a list of enumerated classes. Additionally, D.C. Rule 8.4, Comment [3] also contains a variation of the former Comment [3] to Model Rule 8.4 that prohibited certain conduct that manifests bias or prejudice. That Comment was adopted in 2007 to bring the D.C. Rule closer to the then-Model Rules.

The Committee now recommends amendments to D.C. Rule 9.1 based on Model Rule 8.4(g), with some minor differences. The Committee also recommends an amendment to Comment [3] to Rule 8.4 that would cross reference Rule 9.1.

**V. PROPOSED REVISIONS TO D.C. RULE 9.1 AND RULE 8.4, COMMENT [3]
(NONDISCRIMINATION AND ANTIHARASSMENT)**

The Committee recommends amendments to D.C. Rule 9.1 based on ABA Model Rule 8.4(g), with some minor differences. The Committee also recommends an amendment to Comment [3] to D.C. Rule 8.4 that would cross reference D.C. Rule 9.1.

A. Background

In August 2016, the ABA House of Delegates adopted Model Rule 8.4(g) to prohibit discrimination and harassment in conduct related to the practice of law. Twenty-five jurisdictions, including the District, already had legal ethics rules dealing with discrimination and/or harassment in some form at the time of the Model Rule's adoption. D.C. Rule 9.1, which became effective in 1991, prohibits discrimination by lawyers in conditions of employment based on a list of enumerated classes. Additionally, D.C. Rule 8.4, Comment [3] also contains a variation of the former Comment [3] to Model Rule 8.4 and prohibits certain conduct that manifests bias or prejudice.

Following the ABA's adoption of Model Rule 8.4(g), the Rules Review Committee appointed a subcommittee which met over a period of several months to study the Model Rule and develop recommendations. The Committee ultimately approved a recommendation to amend D.C. Rule 9.1 based on Model Rule 8.4(g), with some minor differences; and Comment [3] to Rule 8.4 to include a cross reference to Rule 9.1.

B. Comparison of Existing D.C. Rule 9.1 and Model Rule 8.4(g)

Existing D.C. Rule 9.1 is an antidiscrimination provision that prohibits D.C. lawyers from discriminating against individuals on the basis of certain characteristics in conditions of employment only. Specifically, Rule 9.1 states:

A lawyer shall not discriminate against any individual in conditions of employment because of the individual's race, color, religion, national origin, sex, age, marital status, sexual orientation, family responsibility, or physical handicap.

By contrast, ABA Model Rule 8.4(g) is broader in scope and also contains strong antiharassment provisions. Specifically, 8.4(g) provides that it is professional misconduct for a lawyer to:

(g) engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does

not preclude legitimate advice or advocacy consistent with these Rules.

Currently, only harassment that interferes with the administration of justice is prohibited under the D.C. Rules by Rule 8.4(d) and Comment [3].¹⁵ In recommending that D.C. Rule 9.1 be amended to closely align with ABA Model Rule 8.4(g), the Bar expands the scope of prohibited behavior under the D.C. Rule without losing any of the limitations on lawyer conduct already imposed by the current Rules.

In addition to the report that accompanied the adoption of Model Rule 8.4(g), the Committee considered the significant public debate over the constitutionality of the Model Rule preceding and following its adoption by the ABA. Further, the Committee considered the actions taken by other jurisdictions, D.C.'s existing rules on harassment and discrimination, and the legislative history of D.C. Rule 9.1.

1. Committee Analysis

In making a recommendation to significantly amend Rule 9.1, members of the Rules Review Committee considered the possibility that lawyers might object to the proposed amended Rule on grounds that it infringes on their First Amendment rights to free speech, which was the principal argument raised by commenters against the adoption of ABA Model Rule 8.4(g). The Committee concluded that all of the ethics Rules are necessarily subject to the truism that in circumstances in which a lawyer is exercising a constitutionally protected right, he or she cannot be disciplined under the ethics rules. Further, the Committee determined that it was neither appropriate nor possible to resolve the questions of whether and in what circumstances a particular lawyer's conduct would be in fact constitutionally protected. Indeed, there are numerous court decisions, not all of which are consistent, which address whether and in what circumstances a lawyer's otherwise protected constitutional rights may be properly limited under the ethics rules.

Also debated within the Committee were the various categories of bias that were prohibited under existing Rule 9.1, Comment [3] to D.C. Rule 8.4, and Model Rule 8.4(g). The Committee's proposed rule forbids harassment and discrimination on the basis of "race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, family responsibility, or socioeconomic status." In comparison to the existing Rule 9.1, the proposed rule eliminates the categories of color and physical handicap and adds the categories of ethnicity, disability, gender identity, and socioeconomic status. The list differs from the Model Rule only in that it includes the category of family responsibility as a vestige of D.C.'s original rule. The Committee debated the inclusion of the category of "socioeconomic status," ultimately including it after determining that it is meant to address situations where, for example, a lawyer improperly refers to a witness's socioeconomic status in a derogatory manner, but not to compel a lawyer to accept a *pro bono* matter.

¹⁵[3] A lawyer violates paragraph (d) by offensive, abusive, or harassing conduct that seriously interferes with the administration of justice. Such conduct may include words or actions that manifest bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.

C. Proposed Revision to D.C. Rule 8.4, Comment [3]

With respect to the new language proposed for Comment [3] to Rule 8.4, the Committee noted that the Comment as currently written was redundant with the Rule itself, as a lawyer's harassing behavior that interferes with the administration of justice inevitably violates a rule that prohibits lawyers from interfering with the administration of justice. The proposed revised Comment [3] serves as a helpful cross-reference for those lawyers who reasonably search for the District's prohibition on harassment and discrimination in Rule 8.4, based on the location of the provision in the Model Rules, and also flags for lawyers the possibility that a perpetrator of harassment and discrimination may, in certain circumstances, be at risk for a violation of Rule 8.4(d) in addition to Rule 9.1.

Proposed Revised Comment [3] to Rule 8.4

[3] See Rule 9.1 for guidance on prohibited harassment and discrimination. Conduct that violates Rule 9.1 and seriously interferes with the administration of justice also violates paragraph (d) of this Rule. A lawyer violates paragraph (d) by offensive, abusive, or harassing conduct that seriously interferes with the administration of justice. Such conduct may include words or actions that manifest bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.

D. Proposed Amendments to D.C. Rule 9.1

Based on the forgoing, the Rules Review Committee voted unanimously to recommend the adoption of an amended Rule 9.1 to replace the existing Rule. The proposed text of Rule 9.1 follows:

RULE 9.1 (NONDISCRIMINATION AND ANTIHARASSMENT)

It is professional misconduct for a lawyer, with respect to the practice of law, to engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, family responsibility, or socioeconomic status. This Rule does not limit the ability of a lawyer to accept, decline or, in accordance with Rule 1.16, withdraw from a representation. This Rule does not preclude providing legitimate advice or engaging in legitimate advocacy consistent with these Rules.

Comment

[1] Discrimination and harassment by lawyers in violation of the Rule undermine confidence in the legal profession and the legal system. Such discrimination includes harmful verbal or physical conduct that manifests bias or prejudice towards others. Harassment includes sexual harassment and derogatory or demeaning verbal or physical conduct. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature. The substantive law of antidiscrimination and antiharassment may guide application of the Rule.

[2] Conduct with respect to the practice of law includes representing clients, interacting with witnesses, coworkers, court personnel, lawyers, and others while engaged in the practice of law; operating or managing a law firm or law practice; and participating in bar association or business activities (for example, social functions sponsored by the firm or employer as well as travel for the firm or employer) in connection with the practice of law. Lawyers may engage in conduct undertaken to promote diversity and inclusion without violating this Rule by, for example, implementing initiatives aimed at recruiting, hiring, retaining and advancing diverse employees or sponsoring diverse law student organizations.

[3] A lawyer's use of peremptory challenges is addressed by Rule 3.4(g). A lawyer does not violate Rule 9.1 by limiting the scope or subject matter of the lawyer's practice or by limiting the lawyer's practice to members of underserved populations in accordance with these Rules and other law. A lawyer may charge and collect reasonable fees and expenses for a representation. Rule 1.5(a). Lawyers also should be mindful of their professional obligations under Rule 6.1 to provide legal services to those who are unable to pay, and their obligation under Rule 6.2 not to avoid appointments from a tribunal except for good cause. See Rule 6.2(a), (b), and (c). A lawyer's representation of a client does not constitute an endorsement by the lawyer of the client's views or activities. See Rule 1.2(b).

[4] The D.C. Human Rights Act, D.C. Code § 2-1402.11 (2001), and federal law also contain certain prohibitions on discrimination in employment.

[5] The investigation and adjudication of discrimination claims may involve particular expertise of the kind found within the D.C. Office of Human Rights and the federal Equal Employment Opportunity Commission. These agencies have, in appropriate circumstances, the power to award remedies to the victims of discrimination, such as reinstatement or back pay, which extend beyond the remedies that are available through the disciplinary process. Remedies available through the disciplinary process include such sanctions as disbarment, suspension, censure, and admonition, but do not extend to monetary awards or other remedies that could alter the employment status to take into account the impact of prior acts of discrimination.

[6] If proceedings are pending before other organizations, such as the D.C. Office of Human Rights or the Equal Employment Opportunity Commission, the processing of complaints by Disciplinary Counsel may be deferred or abated where there is substantial similarity between the complaint filed with Disciplinary Counsel and material allegations involved in other proceedings. See §19(d) of Rule XI of the Rules Governing the District of Columbia Bar.

[7] The prior version of Rule 9.1 included "physical handicap" among the disallowed bases for harassment and discrimination. That basis now is subsumed within the new category of "disability."

EXHIBIT F

District of Columbia Rules of Professional Conduct

Rule 8.4 (Misconduct): Proposed Revisions Showing Mark-up

[Unmarked text is the current D.C. Rule/Comment; proposed additions: **bold and underscored**; proposed deletions: strike-through, as in ~~deleted~~]

D.C. Rule 8.4 (Misconduct)

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
- (c) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (d) Engage in conduct that seriously interferes with the administration of justice;
- (e) State or imply an ability to influence improperly a government agency or official;
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or
- (g) Seek or threaten to seek criminal charges or disciplinary charges solely to obtain an advantage in a civil matter.

Comment

[1] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are

in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

[2] Paragraph (d)'s prohibition of conduct that "seriously interferes with the administration of justice" includes conduct proscribed by the previous Code of Professional Responsibility under DR 1-102(A)(5) as "prejudicial to the administration of justice." The cases under paragraph (d) include acts by a lawyer such as: failure to cooperate with Disciplinary Counsel; failure to respond to Disciplinary Counsel's inquiries or subpoenas; failure to abide by agreements made with Disciplinary Counsel; failure to appear in court for a scheduled hearing; failure to obey court orders; failure to turn over the assets of a conservatorship to the court or to the successor conservator; failure to keep the Bar advised of respondent's changes of address, after being warned to do so; and tendering a check known to be worthless in settlement of a claim against the lawyer or against the lawyer's client. Paragraph (d) is to be interpreted flexibly and includes any improper behavior of an analogous nature to these examples.

[3] ~~A lawyer violates paragraph (d) by offensive, abusive, or harassing conduct~~**See Rule 9.1 for guidance on prohibited harassment and discrimination. Conduct that violates Rule 9.1 and** seriously interferes with the administration of justice **also violates paragraph (d) of this Rule.** ~~Such conduct may include words or actions that manifest bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.~~

District of Columbia Rules of Professional Conduct

Rule 8.4 (Misconduct): Clean Version

D.C. Rule 8.4 (Misconduct)

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
- (c) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (d) Engage in conduct that seriously interferes with the administration of justice;
- (e) State or imply an ability to influence improperly a government agency or official;
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or
- (g) Seek or threaten to seek criminal charges or disciplinary charges solely to obtain an advantage in a civil matter.

Comment

[1] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

[2] Paragraph (d)'s prohibition of conduct that "seriously interferes with the administration of justice" includes conduct proscribed by the previous Code of Professional Responsibility under DR 1-102(A)(5) as "prejudicial to the administration of justice." The cases under paragraph (d) include acts by a lawyer such as: failure to cooperate with Disciplinary Counsel; failure to respond to Disciplinary Counsel's inquiries or subpoenas; failure to abide by agreements made with Disciplinary Counsel; failure to appear in court for a scheduled hearing; failure to obey court orders; failure to turn over the assets of a conservatorship to the court or to the successor conservator; failure to keep the Bar advised of respondent's changes of address, after being warned

to do so; and tendering a check known to be worthless in settlement of a claim against the lawyer or against the lawyer's client. Paragraph (d) is to be interpreted flexibly and includes any improper behavior of an analogous nature to these examples.

[3] See Rule 9.1 for guidance on prohibited harassment and discrimination. Conduct that violates Rule 9.1 and seriously interferes with the administration of justice also violates paragraph (d) of this Rule.

EXHIBIT G

District of Columbia Rules of Professional Conduct

Rule 9.1 (Discrimination in Employment): Proposed Revisions Showing Mark-up

[Unmarked text is the current D.C. Rule/Comment; proposed additions: **bold and underscored**; proposed deletions: strike-through, as in ~~deleted~~]

D.C. Rule 9.1 (**Nondiscrimination and Antiharassment**) ~~Discrimination in Employment~~

A lawyer shall not discriminate against any individual in conditions of employment ~~because~~ **It is professional misconduct for a lawyer, with respect to the practice of law, to engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis** of the individual's race, ~~sex~~ color, religion, national origin, ~~ethnicity~~ sex, disability, age, ~~marital status~~, sexual orientation, gender identity, marital status, family responsibility, or socioeconomic status ~~physical handicap~~. **This Rule does not limit the ability of a lawyer to accept, decline or, in accordance with Rule 1.16, withdraw from a representation. This Rule does not preclude providing legitimate advice or engaging in legitimate advocacy consistent with these Rules.**

Comment

[1] **Discrimination and harassment by lawyers in violation of the Rule undermine confidence in the legal profession and the legal system. Such discrimination includes harmful verbal or physical conduct that manifests bias or prejudice towards others. Harassment includes sexual harassment and derogatory or demeaning verbal or physical conduct. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature. The substantive law of antidiscrimination and antiharassment may guide application of the Rule.**

[2] **Conduct with respect to the practice of law includes representing clients, interacting with witnesses, coworkers, court personnel, lawyers, and others while engaged in the practice of law; operating or managing a law firm or law practice; and participating in bar association or business activities (for example, social functions sponsored by the firm or employer as well as travel for the firm or employer) in connection with the practice of law. Lawyers may engage in conduct undertaken to promote diversity and inclusion without violating this Rule by, for example, implementing initiatives aimed at recruiting, hiring, retaining and advancing diverse employees or sponsoring diverse law student organizations.**

[3] **A lawyer's use of peremptory challenges is addressed by Rule 3.4(g). A lawyer does not violate Rule 9.1 by limiting the scope or subject matter of the lawyer's practice or by limiting the lawyer's practice to members of underserved populations in accordance with these Rules and other law. A lawyer may charge and collect reasonable fees and expenses for a representation. Rule 1.5(a). Lawyers also should be mindful of their professional obligations under Rule 6.1 to provide legal services to those who are unable to pay, and their obligation under Rule 6.2 not to avoid appointments from a tribunal except for good cause.**

See Rule 6.2(a), (b), and (c). A lawyer’s representation of a client does not constitute an endorsement by the lawyer of the client’s views or activities. See Rule 1.2(b).

[14] This provision is modeled after the The D.C. Human Rights Act, D.C. Code § 2-1402.11 (2001), though in some respects is more limited in scope. There are also provisions of **and** federal law that **also** contain certain prohibitions on discrimination in employment. The Rule is not intended to create ethical obligations that exceed those imposed on a lawyer by applicable law.

[25] The investigation and adjudication of discrimination claims may involve particular expertise of the kind found within the D.C. Office of Human Rights and the federal Equal Employment Opportunity Commission. ~~Such experience may involve, among other things, methods of analysis of statistical data regarding discrimination claims.~~ These agencies also have, in appropriate circumstances, the power to award remedies to the victims of discrimination, such as reinstatement or back pay, which extend beyond the remedies that are available through the disciplinary process. Remedies available through the disciplinary process include such sanctions as disbarment, suspension, censure, and admonition, but do not extend to monetary awards or other remedies that could alter the employment status to take into account the impact of prior acts of discrimination.

[36] If proceedings are pending before other organizations, such as the D.C. Office of Human Rights or the Equal Employment Opportunity Commission, the processing of complaints by Disciplinary Counsel may be deferred or abated where there is substantial similarity between the complaint filed with Disciplinary Counsel and material allegations involved in such other proceedings. *See* §19(d) of Rule XI of the Rules Governing the District of Columbia Bar.

[7] The prior version of Rule 9.1 included “physical handicap” among the disallowed bases for harassment and discrimination. That basis now is subsumed within the new category of “disability.”

District of Columbia Rules of Professional Conduct

Rule 9.1 (Nondiscrimination and Antiharassment): Clean Version

D.C. Rule 9.1 (Nondiscrimination and Antiharassment)

It is professional misconduct for a lawyer, with respect to the practice of law, to engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, family responsibility, or socioeconomic status. This Rule does not limit the ability of a lawyer to accept, decline or, in accordance with Rule 1.16, withdraw from a representation. This Rule does not preclude providing legitimate advice or engaging in legitimate advocacy consistent with these Rules.

Comment

[1] Discrimination and harassment by lawyers in violation of the Rule undermine confidence in the legal profession and the legal system. Such discrimination includes harmful verbal or physical conduct that manifests bias or prejudice towards others. Harassment includes sexual harassment and derogatory or demeaning verbal or physical conduct. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature. The substantive law of antidiscrimination and antiharassment may guide application of the Rule.

[2] Conduct with respect to the practice of law includes representing clients, interacting with witnesses, coworkers, court personnel, lawyers, and others while engaged in the practice of law; operating or managing a law firm or law practice; and participating in bar association or business activities (for example, social functions sponsored by the firm or employer as well as travel for the firm or employer) in connection with the practice of law. Lawyers may engage in conduct undertaken to promote diversity and inclusion without violating this Rule by, for example, implementing initiatives aimed at recruiting, hiring, retaining and advancing diverse employees or sponsoring diverse law student organizations.

[3] A lawyer's use of peremptory challenges is addressed by Rule 3.4(g). A lawyer does not violate Rule 9.1 by limiting the scope or subject matter of the lawyer's practice or by limiting the lawyer's practice to members of underserved populations in accordance with these Rules and other law. A lawyer may charge and collect reasonable fees and expenses for a representation. Rule 1.5(a). Lawyers also should be mindful of their professional obligations under Rule 6.1 to provide legal services to those who are unable to pay, and their obligation under Rule 6.2 not to avoid appointments from a tribunal except for good cause. See Rule 6.2(a), (b), and (c). A lawyer's representation of a client does not constitute an endorsement by the lawyer of the client's views or activities. See Rule 1.2(b).

[4] The D.C. Human Rights Act, D.C. Code § 2-1402.11 (2001), and federal law also contain certain prohibitions on discrimination in employment.

[5] The investigation and adjudication of discrimination claims may involve particular expertise of the kind found within the D.C. Office of Human Rights and the federal Equal

Employment Opportunity Commission. These agencies have, in appropriate circumstances, the power to award remedies to the victims of discrimination, such as reinstatement or back pay, which extend beyond the remedies that are available through the disciplinary process. Remedies available through the disciplinary process include such sanctions as disbarment, suspension, censure, and admonition, but do not extend to monetary awards or other remedies that could alter the employment status to take into account the impact of prior acts of discrimination.

[6] If proceedings are pending before other organizations, such as the D.C. Office of Human Rights or the Equal Employment Opportunity Commission, the processing of complaints by Disciplinary Counsel may be deferred or abated where there is substantial similarity between the complaint filed with Disciplinary Counsel and material allegations involved in other proceedings. See §19(d) of Rule XI of the Rules Governing the District of Columbia Bar.

[7] The prior version of Rule 9.1 included “physical handicap” among the disallowed bases for harassment and discrimination. That basis now is subsumed within the new category of “disability.”