

**KENTUCKY BAR ASSOCIATION
RULES OF THE SUPREME COURT OF KENTUCKY**

PRACTICE OF LAW

SCR 3.130(5.7) Activities of Suspended Lawyer

(a) During a period of suspension a suspended lawyer may not perform any of the following acts:

(1) render legal consultation or legal advice to any person;

(2) appear on behalf of another person in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer, unless the rules of the tribunal involved permit representation by non-lawyers and the represented person has been fully informed of the lawyer's suspension;

(3) appear as a representative of another person at a deposition or other discovery matter;

(4) negotiate or transact any matter for or on behalf of another person with third parties;

(5) receive, disburse, or otherwise handle a client's funds; or

(6) engage in activities that constitute the practice of law.

(b) A lawyer shall not employ, associate professionally with or aid a person a lawyer knows or reasonable should know has been suspended to do any of the preceding described acts during a suspended lawyer's period of suspension. Further, a lawyer shall not employ or associate professionally with a member whose license to practice law has been suspended if the suspended lawyer was associated with such lawyer or law firm at the time of such member's suspension.

(c) Except as provided in paragraph (a) and (b), a suspended lawyer may perform research, draft documents, perform clerical functions, and similar activities for the use by a lawyer who assumes professional responsibility for the suspended lawyer's activities.

(d) Prior to or at the time of employing a suspended lawyer, the employing lawyer shall serve upon Bar Counsel written notice of the employment of the suspended lawyer, including a description of such suspended member's current license status. The notice shall include a statement that the suspended lawyer shall not be employed to perform any of the activities prohibited by paragraph (a). Upon terminating the employment of a suspended lawyer, the employing lawyer shall promptly serve written notice of such termination upon Bar Counsel.

HISTORY: Adopted by Order 2015-20; eff. 1-1-2016

SUPREME COURT COMMENTARY

(1) A lawyer's suspension may be as a result of a suspension in any jurisdiction including those suspended for failure to pay Bar dues as provided by SCR 3.050 or for failure to comply with continuing legal education requirements as provided by SCR 3.661.

(2) The term "employ" means engaging the services of a suspended lawyer, whether for pay as an employee or independent contractor, or volunteer, or accepting any service from the suspended lawyer. The requirements of the Rule apply to all attorneys in the employing firm. In all employment situations permitted by this Rule the employing lawyer shall assure that the suspended lawyer does not have any interaction with the public from which it might reasonably appear that the suspended lawyer is a lawyer in good standing. This includes, but is not limited to, communication with any clients of the employing attorney, or communications with any attorneys other than the employing attorney.

(3) An employing lawyer shall take appropriate actions to assure that the suspended lawyer does not receive, disburse, or otherwise handle any client or attorney client escrow funds.

(4) Examples of the type of work a suspended lawyer may include: (a) performing legal work of a preparatory nature for an active lawyer's review, such as legal research, gathering information, and drafting pleadings, briefs, and other similar documents; (b) communicates with a lawyer's client or third parties regarding matters such as scheduling, billing, updates on the status of a client's matters, fact gathering, and confirmation of receipt or sending of correspondence and messages; (c) accompanying an active lawyer to a deposition or other discovery proceeding for the limited purpose of providing clerical assistance to the lawyer who will appear as a client's representative. A suspended lawyer shall comply with the requirements of SCR 3.390 and take all reasonable steps to protect the interests of the lawyer's clients.