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	<p style="text-align: center;">Rule 8.4 Comment [3] December 6, 2007</p> <p>Variations from ABA Model Rule are noted. Based on reports of state committees reviewing recent changes to the Model Rules. For information on individual state committee reports, see <a href="http://www.abanet.org/cpr/jclr/home.html">http://www.abanet.org/cpr/jclr/home.html</a>.</p> <p>Nine states have rule same or similar to MR (AZ, AR, CT, DE, ID, SC, SD, TN, UT)  18 states have black-letter rule on bias (DC, FL, IL, IN, IA, MD, MN, MO, NE, NJ, NY, ND, OH, RI, TX, VT, WA, WI)  One state has revised rule effective 1/1/08 same as MR (NH)  One state has revised rule effective 1/1/08 with black-letter rule on bias (CO)  Two states have proposed rule same or similar to MR (ME, MI)  One state has proposed rule with black-letter rule on bias (CA)  19 states do not have (AL, AK, GA, HI, KS, KY, LA, MA, MS, MT, NV, NM, NC, OK, OR, PA, VA, WV, WY)</p>
AL	Does not have
AK	Does not have Proposed rules do not include
AZ	Second comment same as MR but replaces second sentence with “This does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.”
AR	[3] Subdivision (d) of this rule proscribes conduct that is prejudicial to the administration of justice. Such proscription includes the prohibition against discriminatory conduct committed by a lawyer while performing duties in connection with the practice of law. The proscription extends to any characteristic or status that is not relevant to the proof of any legal or factual issue in dispute. Such discriminatory conduct, when directed towards litigants, jurors, witnesses, other lawyers, or the court, including race, sex, religion, national origin, or any other similar factors, subverts the administration of justice and undermines the public's confidence in our system of justice, as well as notions of equality. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d). A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule. This subdivision does not prohibit a lawyer from representing a client accused of committing discriminatory conduct.

CA	<p>Does not have; does not have MRs</p> <p>Proposed 8.4 adds (e) knowingly manifest, by words or conduct, bias or prejudice on the basis of race, sex, religion, national origin, disability, age or sexual orientation, if prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not constitute a violation of this Rule.</p> <p>Proposed [6] same as MR [3] but deletes “socioeconomic status”</p>
CO	<p>Does not have</p> <p>Revised 8.4 effective 1/1/08 adds (g) engage in conduct, in the representation of a client, that exhibits or is intended to appeal to or engender bias against a person on account of that person’s race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status, whether that conduct is directed to other counsel, court personnel, witnesses, parties, judges, judicial officers, or any persons involved in the legal process; or</p> <p>Revised [3] same as MR but replaces “sex” with “gender,” adds “paragraph (g) and also may violate” after “violates” and changes language after “does not violate” to “paragraphs (d) and (g)”</p>
CT	Same as MR but does not have last sentence
DE	Same as MR
DC	<p>[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.</p> <p>Adds Rule 9.1 – Nondiscrimination</p> <p>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.</p> <p>COMMENT</p> <p>[1] This provision is modeled after 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 federal law that 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.</p> <p>[2] 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</p>

	<p>of discrimination.</p> <p>[3] 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 Bar Counsel may be deferred or abated where there is substantial similarity between the complaint filed with Bar Counsel and material allegations involved in such other proceedings. <i>See</i> §19(d) of Rule XI of the Rules Governing the District of Columbia Bar.</p>
FL	<p>Adds (d) engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic;</p> <p>Adds fifth Comment: Subdivision (d) of this rule proscribes conduct that is prejudicial to the administration of justice. Such proscription includes the prohibition against discriminatory conduct committed by a lawyer while performing duties in connection with the practice of law. The proscription extends to any characteristic or status that is not relevant to the proof of any legal or factual issue in dispute. Such conduct, when directed towards litigants, jurors, witnesses, court personnel, or other lawyers, whether based on race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, physical characteristic, or any other basis, subverts the administration of justice and undermines the public's confidence in our system of justice, as well as notions of equality. This subdivision does not prohibit a lawyer from representing a client as may be permitted by applicable law, such as, by way of example, representing a client accused of committing discriminatory conduct.</p>
GA	Does not have
HI	Does not have
ID	Same as MR
IL	<p>(a)(5) same as MR (d) but adds to end “In relation thereto, a lawyer shall not engage in adverse discriminatory treatment of litigants, jurors, witnesses, lawyers, and others, based on race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status. This subsection does not preclude legitimate advocacy when these or similar factors are issues in the proceeding;”</p> <p>Adds (a)(9)(A) violate a Federal, State or local statute or ordinances that prohibits discrimination based on race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status by conduct that reflects adversely on the lawyer’s fitness as a lawyer. Whether a discriminatory act reflects adversely on a lawyer’s fitness as a lawyer shall be determined after consideration of all the circumstances, including (1) the seriousness of the act, (2) whether the lawyer knew that it was prohibited by statute or ordinance, (3) whether it was part of a pattern of prohibited conduct, and (4) whether it was committed in connection with the lawyer’s professional activities.</p>

	<p>(B) No complaint of professional misconduct based on an unlawfully discriminatory act, pursuant to paragraph (9)(A) of this rule, may be brought until a court or administrative agency of competent jurisdiction has found that the lawyer has engaged in an unlawfully discriminatory act, and that the determination of the court or administrative agency has become final and enforceable and the right of judicial review of the determination has been exhausted.</p> <p>Did not adopt MR Comments</p> <p>Proposed rule adds (j), which is the same as current (a)(9)</p> <p>Proposed [3] same as MR</p>
IN	<p>Adds (g) engage in conduct, in a professional capacity, manifesting, by words or conduct, bias or prejudice based upon race, gender, religion, national origin, disability, sexual orientation, age, socioeconomic status, or similar factors. Legitimate advocacy respecting the foregoing factors does not violate this subsection. A trial judge’s finding that preemptory challenges were exercised on a discriminatory basis does not alone establish a violation of this Rule.</p> <p>Does not have MR [3]</p>
IA	<p>Adds (g) engage in sexual harassment or other unlawful discrimination in the practice of law or knowingly permit staff or agents subject to the lawyer’s direction and control to do so.</p> <p>[3] same as MR but adds to end “For another reference to discrimination as professional misconduct, see paragraph (g).”</p>
KS	<p>Does not have</p> <p>Revised rules effective 7/1/07</p>
KY	<p>Does not have</p> <p>Proposed rule same as MR</p>
LA	<p>Does not have; did not adopt MR Comments</p> <p>Revised rules effective 3/1/04</p>
ME	<p>Does not have; does not have MRs</p> <p>Proposed [3] Legitimate advocacy does not violate paragraph (d). However, by way of example, a lawyer who, in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates paragraph (d) when such actions are prejudicial to the administration of justice. Notwithstanding the foregoing, a trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule.</p>
MD	<p>Adds (e) knowingly manifest by words or conduct when acting in a professional capacity bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status when such action is prejudicial to the administration of justice, provided, however, that legitimate advocacy is not a violation of this paragraph;</p> <p>[3] Sexual misconduct or sexual harassment involving colleagues, clients, or co-workers may violate paragraph (d) or (e). This could occur, for example, where coercion or undue influence is used to obtain sexual favor in exploitation of these relationships. See Attorney Grievance Commission v.</p>

	<p>Goldsborough, 330 Md. 342 (1993). See also Rule 1.7.</p> <p>[4] Paragraph (e) reflects the premise that a commitment to equal justice under the law lies at the very heart of the legal system. As a result, even when not otherwise unlawful, a lawyer who, while acting in a professional capacity, engages in the conduct described in paragraph (e) and by so doing prejudices the administration of justice commits a particularly egregious type of discrimination. Such conduct manifests a lack of character required of members of the legal profession. A trial judge’s finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule. A judge, however, must require lawyers to refrain from the conduct described in paragraph (e). See Md. Rule 16-813, Maryland Code of Judicial Conduct, Canon 3 B (11).</p>
MA	Does not have
MI	Does not have Proposed rule same as MR
MN	<p>Adds (g) harass a person on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status in connection with a lawyer’s professional activities;</p> <p>(h) commit a discriminatory act prohibited by federal, state, or local statute or ordinance that reflects adversely on the lawyer’s fitness as a lawyer. Whether a discriminatory act reflects adversely on a lawyer’s fitness as a lawyer shall be determined after consideration of all the circumstances, including:</p> <ol style="list-style-type: none"> <li>(1) the seriousness of the act,</li> <li>(2) whether the lawyer knew that the act was prohibited by statute or ordinance,</li> <li>(3) whether the act was part of a pattern of prohibited conduct, and</li> <li>(4) whether the act was committed in connection with the lawyer’s professional activities; or</li> </ol> <p>[4] Paragraph (g) specifies a particularly egregious type of discriminatory act-harassment on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status. What constitutes harassment in this context may be determined with reference to antidiscrimination legislation and case law thereunder. This harassment ordinarily involves the active burdening of another, rather than mere passive failure to act properly.</p> <p>[5] Harassment on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status may violate either paragraph (g) or paragraph (h). The harassment violates paragraph (g) if the lawyer committed it in connection with the lawyer’s professional activities. Harassment, even if not committed in connection with the lawyer’s professional activities, violates paragraph (h) if the harassment (1) is prohibited by antidiscrimination legislation and (2) reflects adversely on the lawyer’s fitness as a lawyer, determined as specified in paragraph (h).</p> <p>[6] Paragraph (h) reflects the premise that the concept of human equality lies at the very heart of our legal system. A lawyer whose behavior demonstrates hostility toward or indifference to the policy of equal justice under the law may thereby manifest a lack of character required of members of the legal</p>

	<p>profession. Therefore, a lawyer’s discriminatory act prohibited by statute or ordinance may reflect adversely on his or her fitness as a lawyer even if the unlawful discriminatory act was not committed in connection with the lawyer’s professional activities.</p> <p>[7] Whether an unlawful discriminatory act reflects adversely on fitness as a lawyer is determined after consideration of all relevant circumstances, including the four factors listed in paragraph (h). It is not required that the listed factors be considered equally, nor is the list intended to be exclusive. For example, it would also be relevant that the lawyer reasonably believed that his or her conduct was protected under the state or federal constitution or that the lawyer was acting in a capacity for which the law provides an exemption from civil liability. See, e.g., Minn. Stat. Section 317A.257 (unpaid director or officer of nonprofit organization acting in good faith and not willfully or recklessly).</p>
MS	<p>Does not have Revised rules effective 11/3/05</p>
MO	<p>Adds (g) manifest by words or conduct, in representing a client, bias or prejudice based upon race, sex, religion, national origin, disability, age, or sexual orientation. This Rule 4-8.4(g) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation, or other similar factors, are issues.</p> <p>[3] Rule 4-8.4(g) identifies the special importance of a lawyer’s words or conduct, in representing a client, that manifest bias or prejudice against others based upon race, sex, religion, national origin, disability, age, or sexual orientation. Rule 4-8.4(g) excludes those instances in which a lawyer engages in legitimate advocacy with respect to these factors. A lawyer acts as an officer of the court and is licensed to practice by the state. The manifestation of bias or prejudice by a lawyer, in representing a client, fosters discrimination in the provision of services in the state judicial system, creates a substantial likelihood of material prejudice by impairing the integrity and fairness of the judicial system, and undermines public confidence in the fair and impartial administration of justice.</p> <p>Whether a lawyer’s conduct constitutes professional misconduct in violation of Rule 4-8.4(g) can be determined only by a review of all of the circumstances; e.g., the gravity of the acts and whether the acts are part of a pattern of prohibited conduct. For the purpose of Rule 4-8.4(g), “manifest ... bias or prejudice” is defined as words or conduct that the lawyer knew or should have known discriminate against, threaten, harass, intimidate, or denigrate any individual or group. Prohibited conduct includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:</p> <p>(a) submission to that conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment;</p> <p>(b) submission to or rejection of such conduct by an individual is used as a factor in decisions affecting such individual; or</p> <p>(c) such conduct has the purpose or effect of unreasonably interfering with an</p>

	individual's work performance or of creating an intimidating, hostile or offensive environment.
MT	Does not have; did not adopt MR Comments Revised rules effective 4/1/04
NE	(d): adds to end "Once a lawyer is employed in a professional capacity, the lawyer shall not, in the course of such employment, engage in adverse discriminatory treatment of litigants, witnesses, lawyers, judges, judicial officers or court personnel on the basis of the person's race, national origin, gender, religion, disability, age, sexual orientation or socioeconomic status. This subsection does not preclude legitimate advocacy when these factors are issues in a proceeding." [3] same as MR
NV	Does not have; did not adopt MR Comments Revised rules effective 5/1/06
NH	Does not have Revised rule effective 1/1/08 same as MR
NJ	Adds (g) engage, in a professional capacity, in conduct involving discrimination (except employment discrimination unless resulting in a final agency or judicial determination) because of race, color, religion, age, sex, sexual orientation, national origin, language, marital status, socioeconomic status, or handicap where the conduct is intended or likely to cause harm. Official Comment by Supreme Court (May 3, 1994) This rule amendment (the addition of paragraph g) is intended to make discriminatory conduct unethical when engaged in by lawyers in their professional capacity. It would, for example, cover activities in the court house, such as a lawyer's treatment of court support staff, as well as conduct more directly related to litigation; activities related to practice outside of the court house, whether or not related to litigation, such as treatment of other attorneys and their staff; bar association and similar activities; and activities in the lawyer's office and firm. Except to the extent that they are closely related to the foregoing, purely private activities are not intended to be covered by this rule amendment, although they may possibly constitute a violation of some other ethical rule. Nor is employment discrimination in hiring, firing, promotion, or partnership status intended to be covered unless it has resulted in either an agency or judicial determination of discriminatory conduct. The Supreme Court believes that existing agencies and courts are better able to deal with such matters, that the disciplinary resources required to investigate and prosecute discrimination in the employment area would be disproportionate to the benefits to the system given remedies available elsewhere, and that limiting ethics proceedings in this area to cases where there has been an adjudication represents a practical resolution of conflicting needs. "Discrimination" is intended to be construed broadly. It includes sexual harassment, derogatory or demeaning language, and, generally, any conduct towards the named groups that is both harmful and discriminatory. Case law has already suggested both the area covered by this amendment and the possible direction of future cases. In re Vincenti, 114 N.J. 275 (554 A.2d

	<p>470) (1989). The Court believes the administration of justice would be better served, however, by the adoption of this general rule than by a case by case development of the scope of the professional obligation.</p> <p>While the origin of this rule was a recommendation of the Supreme Court's Task Force on Women in the Courts, the Court concluded that the protection, limited to women and minorities in that recommendation, should be expanded. The groups covered in the initial proposed amendment to the rule are the same as those named in Canon 3A(4) of the Code of Judicial Conduct.</p> <p>Following the initial publication of this proposed subsection (g) and receipt of various comments and suggestions, the Court revised the proposed amendment by making explicit its intent to limit the rule to conduct by attorneys in a professional capacity, to exclude employment discrimination unless adjudicated, to restrict the scope to conduct intended or likely to cause harm, and to include discrimination because of sexual orientation or socioeconomic status, these categories having been proposed by the ABA's Standing Committee on Ethics and Professional Responsibility as additions to the groups now covered in Canon 3A(4) of the New Jersey Code of Judicial Conduct. That Committee has also proposed that judges require attorneys, in proceedings before a judge, refrain from manifesting by words or conduct any bias or prejudice based on any of these categories. See proposed Canon 3A(6). This revision to the RPC further reflects the Court's intent to cover all discrimination where the attorney intends to cause harm such as inflicting emotional distress or obtaining a tactical advantage and not to cover instances when no harm is intended unless its occurrence is likely regardless of intent, e.g., where discriminatory comments or behavior is repetitive. While obviously the language of the rule cannot explicitly cover every instance of possible discriminatory conduct, the Court believes that, along with existing case law, it sufficiently narrows the breadth of the rule to avoid any suggestion that it is overly broad. See, e.g., <i>In re Vincenti</i>, 114 N.J. 275 (554 A.2d 470) (1989).</p>
NM	Does not have
NY	<p>DR 1-102A6. Unlawfully discriminate in the practice of law, including in hiring, promoting or otherwise determining conditions of employment, on the basis of age, race, creed, color, national origin, sex, disability, marital status, or sexual orientation. Where there is a tribunal with jurisdiction to hear a complaint, if timely brought, other than a Departmental Disciplinary Committee, a complaint based on unlawful discrimination shall be brought before such tribunal in the first instance. A certified copy of a determination by such a tribunal, which has become final and enforceable, and as to which the right to judicial or appellate review has been exhausted, finding that the lawyer has engaged in an unlawful discriminatory practice shall constitute prima facie evidence of professional misconduct in a disciplinary proceeding.</p> <p>Proposed 8.4(g) same as DR 1-102A6</p> <p>Proposed [5A] Unlawful discrimination in the practice of law on the basis of age, race, creed, color, national origin, sex, disability, marital status, or sexual orientation is governed by paragraph (b) of this Rule.</p>
NC	Does not have

	Revised rules effective 3/1/03
ND	Adds (f) engage in conduct that is prejudicial to the administration of justice, including to knowingly manifest through words or conduct in the course of representing a client, bias or prejudice based upon race, sex, religion, national origin, disability, age, or sexual orientation, against parties, witnesses, counsel, or others, except when those words or conduct are legitimate advocacy because race, sex, religion, national origin, disability, age, or sexual orientation is an issue in the proceeding; or [3] same as MR but replaces references to “paragraph (d)” with “paragraph (f)”
OH	Adds (g) engage, in a professional capacity, in conduct involving discrimination prohibited by law because of race, color, religion, age, gender, sexual orientation, national origin, marital status, or disability; [4] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of Rule 1.2(d) concerning a good faith challenge to the validity, scope, meaning, or application of the law apply to challenges of legal regulation of the practice of law.
OK	Does not have Revised rules effective 1/1/08 do not have
OR	Does not have; did not adopt MR Comments Revised rules effective 1/1/05
PA	Does not have Revised rules effective 1/1/05
RI	(d): adds to end “including but not limited to, harmful or discriminatory treatment of litigants, jurors, witnesses, lawyers, and others based on race, national origin, gender, religion, disability, age, sexual orientation or socioeconomic status;” [3] same as MR
SC	Same as MR
SD	Same as MR
TN	[2] same as MR [3] but deletes last sentence
TX	Rule 5.08 Prohibited Discriminatory Activities (a) A lawyer shall not willfully, in connection with an adjudicatory proceeding, except as provided in paragraph (b), manifest, by words or conduct, bias or prejudice based on race, color, national origin, religion, disability, age, sex, or sexual orientation towards any person involved in that proceeding in any capacity. (b) Paragraph (a) does not apply to a lawyer’s decision whether to represent a particular person in connection with an adjudicatory proceeding, nor to the process of jury selection, nor to communications protected as confidential information under these Rules. See Rule 1.05(a),(b). It also does not preclude advocacy in connection with an adjudicatory proceeding involving any of the factors set out in paragraph (a) if that advocacy: (i) is necessary in order to address any substantive or procedural issues raised by the proceeding; and (ii) is conducted in conformity with applicable rulings and orders of a tribunal

	<p>and applicable rules of practice and procedure.</p> <p>Comment:</p> <ol style="list-style-type: none"> <li>1. Subject to certain exemptions, paragraph (a) of this Rule prohibits willful expressions of bias or prejudice in connection with adjudicatory proceedings that are directed towards any persons involved with those proceedings in any capacity. Because the prohibited conduct only must occur “in connection with” an adjudicatory proceeding, it applies to misconduct transpiring outside of as well as in the presence of the tribunal’s presiding adjudicatory official. Moreover, the broad definition given to the term “adjudicatory proceeding” under these Rules means that paragraph (a)’s prohibition applies to many settings besides conventional litigation in federal or state courts. See Preamble: Terminology (definitions of “Adjudicatory Proceeding” and “Tribunal”).</li> <li>2. The Rule, however, contains several important limitations and exemptions. The first, found in paragraph (a), is that a lawyer’s allegedly improper words or conduct must be shown to have been “willful” before the lawyer may be subjected to discipline.</li> <li>3. In addition, paragraph (b) sets out four exemptions from the prohibition of paragraph (a). The first is a lawyer’s decision whether to represent a client. The second is any communication made by the lawyer that is “confidential” under Rule 1.05(a) and (b). The third is a lawyer’s communication that is necessary to represent a client properly and that complies with applicable rulings and orders of the tribunal as well as with applicable rules of practice or procedure.</li> <li>4. The fourth exemption in paragraph (b) relates to the lawyer’s words or conduct in selecting a jury. This exemption ensures that a lawyer will be free to thoroughly probe the venire in an effort to identify potential jurors having a bias or prejudice towards the lawyer’s client, or in favor of the client’s opponent, based on, among other things, the factors enumerated in paragraph (a). A lawyer should remember, however, that the use of peremptory challenges to remove persons from juries based solely on some of the factors listed in paragraph (a) raises separate constitutional issues.</li> </ol>
UT	Same as MR
VT	<p>Adds (g) discriminate against any individual because of his or her race, color, religion, ancestry, national origin, sex, sexual orientation, place of birth or age, or against a qualified handicapped individual, in hiring, promoting or otherwise determining the conditions of employment of that individual; or</p> <p>Does not have MR [3]</p> <p>Proposed rule retains current VT 8.4(g)</p> <p>[3] same as MR but replaces references to “paragraph (d)” with “paragraph (g)”</p>
VA	<p>Does not have</p> <p>Revised rules effective 1/1/04</p>
WA	<p>Adds (g) commit a discriminatory act prohibited by state law on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status, where the act of discrimination is committed in connection with the lawyer's professional activities. In addition, it is professional misconduct to commit a discriminatory act on the basis of sexual</p>

	<p>orientation if such an act would violate this Rule when committed on the basis of sex, race, age, creed, religion, color, national origin, disability, or marital status. This Rule shall not limit the ability of a lawyer to accept, decline, or withdraw from the representation of a client in accordance with Rule 1.16;</p> <p>(h) in representing a client, engage in conduct that is prejudicial to the administration of justice toward judges, other parties and/or their counsel, witnesses and/or their counsel, jurors, or court personnel or officers, that a reasonable person would interpret as manifesting prejudice or bias on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status. This Rule does not restrict a lawyer from representing a client by advancing material factual or legal issues or arguments.</p> <p>[3] Legitimate advocacy respecting the factors set forth in paragraph (h) does not violate paragraphs (d) or (h). A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this Rule.</p>
WV	Does not have
WI	<p>Adds (i) harass a person on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual preference or marital status in connection with the lawyer's professional activities. Legitimate advocacy respecting the foregoing factors does not violate par. (i).</p> <p>Wisconsin Committee Comment</p> <p>Paragraphs (f) through (i) do not have counterparts in the Model Rule. What constitutes harassment under paragraph (i) may be determined with reference to anti-discrimination legislation and interpretive case law. Because of differences in content and numbering, care should be used when consulting the ABA Comment.</p> <p>[3] same as MR</p>
WY	<p>Does not have</p> <p>Revised rules effective 7/1/06</p>