

WORKSHEET R
INTRODUCTION TO REPORTING LAWYER MISCONDUCT

Worksheet R is intended to facilitate a discussion about a lawyer's obligation to report lawyer misconduct, including the appropriate way to handle situations where your mentee believes another lawyer has committed an ethical violation or where a senior member of the firm has asked your mentee to do something that is unethical or unprofessional.

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- Discuss a lawyer's obligation to report lawyer/judge misconduct, including reasons why lawyers should report other lawyers' misconduct and to whom such misconduct should be reported. See Prof. Cond. Rules 8.3 and 8.4.
- Discuss the types of factors which should be considered in determining whether misconduct should be reported to a tribunal, disciplinary agency, prosecutor's office, or other authority.
- Discuss the following situations and suggest the most appropriate authority (if any) to whom the conduct should be reported and the reasons therefore:
 - Continuous discovery abuse by opposing counsel.
 - Opposing counsel filing frivolous lawsuits or lawsuits merely to harass your client.
 - Egregiously unprofessional conduct during litigation.
 - Suspected theft by an attorney of a former client's funds.
 - Suspected financial misconduct by a lawyer who is a guardian for an incompetent person.
 - An attorney's failure to pay expert fees or other costs of litigation.
 - Theft of IOLTA monies by a lawyer in your firm.
 - Abusive and disrespectful behavior toward counsel and/or witnesses by a judge.
 - Client neglect because of suspected substance abuse or mental health issues by another attorney.
 - Erratic and unfair behavior by a judge because of suspected substance abuse or mental health issues.
 - Opposing counsel representing a party with whom there is a conflict of interest.
 - Unauthorized practice of law by an attorney licensed in a jurisdiction other than Ohio.
- Discuss a lawyer's obligation to assist in and provide information about a lawyer or judge's conduct in an inquiry by a tribunal or other authority investigating that lawyer or judge. See Prof. Cond. Rule 8.3 and Gov. Bar R. V(4)(G).
- Discuss the firm's procedure (if in an in-house mentoring relationship) or the appropriate action for when your mentee suspects that a partner committed misconduct. Discuss the procedure for when an associate in the firm is suspected of misconduct.
- Discuss what your mentee should do if they do not know whether a partner or associate committed misconduct.

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- Discuss what your mentee should do if a superior in their firm instructs them to do something your mentee believes is unethical. See Prof. Cond. Rules 5.1 and 5.2.
- Discuss your mentee’s ethical responsibility to properly oversee non-lawyer assistants’ conduct to ensure it is compatible with your mentee’s professional obligations. See Prof. Cond. Rule 5.3.
- Suggest resources that your mentee can consult when making important ethical decisions, including the following:
 - Identify the procedure for obtaining in-house ethics advice (if you are in an in-house mentoring relationship).
 - Provide suggestions for finding outside ethics counsel and when such action is recommended.
 - Identify other helpful ethics materials, where they can be found, and the importance of supplementing general ethics resources with independent research on Ohio disciplinary case law when the ethics resources reviewed are not based on the Ohio Rules of Professional Conduct.
 - Identify ethics inquiry services of bar associations.
 - Discuss procedures for requesting or researching ethics advisory opinions of bar associations or the Ohio Supreme Court Board of Commissioners on Grievances and Discipline.
