

GLOSSARY OF ATTORNEY ETHICS AND DISCIPLINARY TERMS

Agreement in Lieu of Discipline - the vehicle used to accomplish diversion of "minor" unethical conduct in matters where an attorney admits "minor" unethical conduct has been committed and that attorney qualifies for diversionary treatment. See R. 1:20-3(i)(2)(B).
(R. 1:20)

Belief or believes - the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances. (RPC 1.0)

Board or Disciplinary Review Board - the intermediate appellate tribunal in disciplinary matters.
(R. 1:20)

Complaint - the written document formally charging the respondent with specific violations of unethical conduct. A complaint is issued after completion of an investigation if it meets the standard of R. 1:20-4(a).
(R. 1:20)

Confirmed in writing - When used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. See paragraph (e) for the definition of "informed consent."
(R. 1.0)

Consent Matter - the appellate process before the Disciplinary Review Board and the Supreme Court by which the extent of discipline to be imposed as the result of discipline by consent is reviewed, without oral argument. See R. 1:20-15(g) and R. 1:20-16(e).
(R. 1:20)

Director - the Director of the Office of Attorney Ethics, who administers the Office of Attorney Ethics, Ethics Committees, Fee Committees, the Random Audit Program, the Annual Attorney Registration Statement, and the Trust Overdraft Notification Program.
(R. 1:20)

Disciplinary Oversight Committee - the Disciplinary Oversight Committee reviews the annual disciplinary system budget and makes recommendations to the Supreme Court concerning the disciplinary system.
(R. 1:20)

Discipline by Consent - a procedure whereby a respondent may agree with an investigator, presenter or ethics counsel to admit facts constituting unethical conduct and recommend specific discipline or a range of specific discipline, subject to review by the Disciplinary Review Board. See R. 1:20-10(b).
(R. 1:20)

Diversion - a non-disciplinary treatment by consent for attorneys who admit they have committed "minor" unethical conduct and who otherwise qualify for diversionary treatment. Diversion is accomplished through an "Agreement In Lieu of Discipline." See R. 1:20-3(i)(2)(A) and (B).
(R. 1:20)

Ethics Committee(s) - one or more district ethics committees throughout the state that screen, investigate, prosecute, and hear disciplinary and disability-inactive matters.
(R. 1:20)

Ethics Counsel - an attorney of the Office of Attorney Ethics. See R. 1:20-2(a).
(R. 1:20)

Fee Committee(s) - one or more district fee arbitration committees throughout the state that screen, hear, and decide disputes by clients over legal fees. (R. 1:20)

Firm or law firm - a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization. (RPC 1.0)

Fraud or fraudulent - conduct that is fraudulent under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive. (RPC 1.0)

Grievance - any allegation of unethical conduct made against an attorney. A grievance, if docketed, is assigned for investigation by the Director or by an Ethics Committee. (R. 1:20)

Informed consent - the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct. (R. 1.0)

Knowingly, known, or knows - actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances. (R. 1.0)

Minor Unethical Conduct - minor types of unethical conduct which, if proved, would not warrant discipline greater than an admonition. Minor unethical conduct matters are eligible for diversionary treatment. R. 1:20-3(i)(2). (R. 1:20)

Partner - a member of a partnership, a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.

Presenter - the attorney who is appointed to prosecute a complaint. R. 1:20-4(g)(1).
(R. 1:20)

Primary responsibility - actual participation in the management and direction of the matter at the policy-making level or responsibility at the operational level as manifested by the continuous day-to-day responsibility for litigation or transaction decisions (R. 1.0)

Reasonable or reasonably - when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer. (R. 1.0)

Reasonable belief or reasonably believes - when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable. (R. 1.0)

Reasonably should know - when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question. (R. 1.0)

Respondent - the attorney who is the subject of disciplinary charges. (R. 1:20)

Screened - the isolation of a lawyer from any participation in a matter through the timely adoption and enforcement by a law firm of a written procedure pursuant to RPC 1.10(f) which is reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under these Rules or other law. (R. 1.0)

Substantial - when used in reference to degree or extent denotes a material matter of clear and weighty importance. (R. 1:20)

Tribunal - a court, an arbitrator in an arbitration proceeding or a legislative body, administrative agency or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter. (R. 1.0)

Trier of Fact - refers to an ethics committee hearing panel or single member adjudicator or special ethics master. (R. 1:20)

Unethical Conduct - all ethics violations that would subject an attorney to discipline are referred to as unethical conduct. R. 1:20-3(i)(1). (R. 1:20)

Writing or written - a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording and e-mail. A "signed" writing includes an electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing. (R. 1:20)