

EMPLOYMENT OF ATTORNEYS IN DISCIPLINARY STATUS*¹

<u>State</u>	<u>Source of Information</u>	<u>Description</u>	<u>Comment</u>
Alabama	Ethics Opinion 1006-08 modified by Rules of Disciplinary Procedure 26(h)	<p>1. Excerpt from Ethics Opinion. A disbarred or suspended attorney may be employed as a paralegal, law clerk, or legal assistant by another attorney subject to the following conditions and restrictions:</p> <p>(1) The disbarred or suspended attorney shall have no contact with the clients of the firm. Any contact with a client is prohibited. Although not an inclusive list, the following restrictions apply: a suspended or disbarred lawyer may not be present during conferences with clients, talk to clients either directly or on the telephone, sign correspondence to them, or contact them either directly or indirectly.</p> <p>(2) The disbarred or suspended attorney shall function only under the close supervision of the employing attorney. Such supervision must be continuous and regular.</p> <p>(3) The employing attorney must file a written report with the Disciplinary Commission outlining the type of work being performed by the disbarred or suspended attorney as well as the supervising mechanism utilized by the employing attorney to supervise the actions of the disbarred or suspended attorney.</p> <p>(4) The supervising attorney must be physically located within the same office or premises as the disbarred or suspended attorney.</p> <p>(5) Disbarred or suspended attorneys are prohibited from attending any court proceedings with the employing or supervising attorney.</p> <p>(6) The disbarred or suspended attorney is prohibited from having any access whatsoever to funds of a client.</p> <p>(7) The employing or supervising attorney shall confirm the parameters of the employment on a quarterly basis to the Disciplinary Commission.</p> <p>2. Rules of Disciplinary Procedure – Rule 26(h)</p> <p>(h) Employment of Lawyers on Disability Inactive Status or Lawyers Who Have Been Suspended or Disbarred</p> <p>(1) A disbarred lawyer may not engage in the practice of law or in any employment in the legal profession.</p> <p>(2) A lawyer on disability inactive status or a suspended lawyer may seek permission</p>	<p>RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined lawyers.</p> <p>Note the distinction between disbarred and other disciplined lawyers.</p>

¹ *Please see Notes at end of chart concerning the manner in which information was compiled.

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		<p>from the Disciplinary Commission to seek employment in the legal profession. Permission will be granted only if the lawyer has complied with all the conditions of suspension or disability inactive status and has demonstrated exemplary conduct indicative of reinstatement. In the event that permission is granted, the lawyer shall not have any contact with the clients of the office either in person, by telephone, or in writing.</p> <p>(3) A law firm may not employ, retain, contract with, or hire a disbarred lawyer to provide services, advice, or labor of the type customarily related to the provision of legal services. This specifically includes, but is not limited to, paralegal services, law-clerk services, research assistance, clerical assistance, secretarial services, office-management services, administrative-support services or any other services where the subject lawyer could have access to clients, clients’ files, or client confidences. If, however, permission has been granted to a suspended lawyer or a lawyer on disability inactive status as provided in paragraph (h) (2) of this rule, a law firm may employ the lawyer for purposes that do not conflict with paragraph (h) (2).</p>	
Alaska	Rule 15 – Grounds for Discipline, Alaska Bar Rules Particular reference to Rule 15(c)	<p>(c) Employment of Disbarred, Suspended, or Resigned Attorney.</p> <p>(1) For purposes of this rule:</p> <p>(A) "disbarred or suspended attorney" means an attorney who has been disbarred or suspended from the practice of law in any jurisdiction;</p> <p>(B) "employ" means to engage the services of another, including employees, agents, independent contractors and consultants, regardless of whether any compensation is paid;</p> <p>(C) "involuntarily inactive attorney" means an attorney who has been transferred to interim disability inactive status or to disability inactive status under Alaska Bar Rule 30 or under a comparable rule in another jurisdiction; and</p> <p>(D) "resigned attorney" means an attorney who has resigned from the bar association of any jurisdiction while disciplinary charges are pending.</p> <p>(2) A member shall not employ, associate professionally with, or aid a person the member knows or reasonably should know is a disbarred, suspended, resigned, or involuntarily inactive attorney to perform the following on behalf of the member's client:</p> <p>(A) render legal consultation or advice to the client;</p> <p>(B) appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer;</p> <p>(C) appear as a representative of the client at a deposition or other discovery matter;</p> <p>(D) negotiate or transact any matter for or on behalf of the client with third parties;</p> <p>(E) receive, disburse, or otherwise handle the client's funds; or</p> <p>(F) engage in activities which constitute the practice of law.</p> <p>(3) A member may employ, associate professionally with, or aid a disbarred, suspended, resigned, or involuntarily inactive attorney to perform research, drafting or clerical activities, including but not limited to:</p> <p>(A) legal work of a preparatory nature, such as legal research, the assemblage of data and</p>	RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined lawyers.

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		<p>other necessary information, drafting of pleadings, briefs, and other similar documents;</p> <p>(B) direct communication with the client or third parties regarding matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages; or</p> <p>(C) accompanying an active member in attending a deposition or other discovery matter for the limited purpose of providing clerical assistance to the active member who will appear as the representative of the client.</p> <p>(4) Prior to or at the time of employing a person the member knows or reasonably should know is a disbarred, suspended, resigned, or involuntarily inactive attorney, the member shall serve upon the Alaska Bar Association written notice of the employment, including a full description of such person's current bar status. The written notice shall also list the activities prohibited in subparagraph (c)(2) and state that the disbarred, suspended, resigned, or involuntarily inactive attorney will not perform such activities. The member shall serve similar written notice upon each client on whose specific matter such person will work, prior to or at the time of employing such person to work on the client's specific matter. The member shall obtain proof of service of the client's written notice and shall retain such proof and a true and correct copy of the client's written notice for two years following termination of the member's employment with the client.</p> <p>(5) A member may, without client or Bar Association notification, employ a disbarred, suspended, resigned, or involuntarily inactive attorney whose sole function is to perform office physical plant or equipment maintenance, courier or delivery services, catering, reception, typing or transcription, or other similar support activities.</p> <p>(6) Upon termination of the disbarred, suspended, resigned, or involuntarily inactive attorney, the member shall promptly serve upon the Bar Association written notice of the termination.</p>	
Arizona	Ethics Opinion No. 87-27 (Dec 30, 1987)	<p>Selected Findings of Opinion</p> <p>“[T]he committee now adopts the bright-line test of allowing a former lawyer to do anything a nonlawyer could do>” The committee rejected a previous Ethics Opinion that disallowed any employment of a disbarred lawyer and a later Ethics Opinion that instituted a balancing test). The Committee relies on Ethical Rules to ensure the disbarred attorney does not engage in UPL and that require the supervising attorney to supervise the disciplined lawyer as with any other non-lawyer employee.</p> <p>“In sum, the committee now finds that a lawyer may employ or engage a disbarred lawyer in the same capacity as [she or he] would employ or engage any nonlawyer for assistance in [her/his] practice. In so finding, however, the committee cautions the lawyer-employer that special care must be exercised to ensure that the disbarred employee does not engage in unethical conduct or the unauthorized practice of law.”</p>	<p>Note: this Ethics Opinion deals only with disbarred lawyers.</p> <p>Note also: the Opinion begins with a reference to Arizona Rules of Professional Conduct, Rules 5.3 and 5.5, as the basis for addressing the issue of employment of a disbarred lawyer.</p> <p>RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined lawyers.</p>
Arkansas	Procedures of the Arkansas Supreme Court Regulating	<p>A. For the purposes of this Section, a "former attorney" is any attorney who is disbarred, has surrendered a law license, is on suspension, or is on inactive status.</p> <p>B. (1) A former attorney providing services to an attorney or law firm under Subsection 22.C</p>	<p>Note that Arkansas treats all the named categories of disciplined lawyers as “former attorneys.”</p>

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	Professional Conduct of Attorneys at Law: Section 22. Restrictions on Former Attorneys (undated)	shall not occupy, share, or use office space in any location or building where the practice of law is conducted. (2) A former attorney shall not engage in the practice of law, nor may a former attorney engage in any employment in or related to the practice of law, except as specifically permitted in this Section. (3) For legal service provided to a client that was not completed prior to becoming a former attorney, a former attorney may receive compensation only on a quantum merit basis. (4) A former attorney shall promptly take such action as is necessary to cause the removal of any indicia of lawyer, counselor at law, attorney, legal assistant, law clerk, or similar title from any association with the name of the former attorney. C. Consistent with the restrictions in Subsection 22.B, a former attorney may provide to attorneys and law firms, whether for or without compensation, services involving legal research, and drafting of briefs and research memorandum, provided the former attorney: (1) Shall have no contact with clients or prospective clients of any attorney or law firm in person, by telephone, in writing, e-mail, or by any other form of communication; (2) Shall have no contact with client funds or property; (3) Any former attorney providing permitted services may be compensated only for the reasonable value of the services provided and shall not be compensated on a contingency basis or share in any way in any fees for legal services provided by an attorney; and (4) Such services are not provided to any attorney or law firm with whom the former attorney had any employment affiliation as an attorney at the time of the activities which resulted in the attorney becoming a former attorney or at the time of the final action which resulted in the attorney becoming a former attorney. D. Any attorney or law firm utilizing the services of a former attorney as permitted in this Section shall be responsible for the actions and work product of the former attorney in the rendering of such services and to ensure that the restrictions on a former attorney set out herein are observed. E. An attorney shall not aid a former attorney in the unauthorized practice of law or in a violation of the restrictions set out herein on former attorneys. An attorney shall have an obligation, as under Model Rule 8.3, to report any violation of this Section by a former attorney. F. The maximum punishment for an attorney, or any former attorney on suspension or on inactive status, violating this Section may be disbarment. A former attorney previously disbarred or who has surrendered a law license and who violates this Section may be deemed to be in contempt of the Supreme Court and may be punished accordingly.	RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined lawyers.
California	Rule 1-311, Rules of Professional Conduct Employment of Disbarred, Suspended, Resigned,	A) For purposes of this rule: (1) "Employ" means to engage the services of another, including employees, agents, independent contractors and consultants, regardless of whether any compensation is paid; (2) "Involuntarily inactive member" means a member who is ineligible to practice law as a result of action taken pursuant to Business and professions Code sections 6007, 6203(c), or	Because this concept is incorporated into the UPL rule, it sets out the rules in terms of what the employing lawyer may engage the disciplined lawyer for.

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	<p>or Involuntarily Inactive Member (Rule 1-300 – UPL)</p>	<p>California Rule of Court 958(d); and (3) "Resigned member" means a member who has resigned from the State Bar while disciplinary charges are pending. (B) A member shall not employ, associate professionally with, or aid a person the member knows or reasonably should know is a disbarred, suspended, resigned, or involuntarily inactive member to perform the following on behalf of the member's client: (1) Render legal consultation or advice to the client; (2) Appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer; (3) Appear as a representative of the client at a deposition or other discovery matter; (4) Negotiate or transact any matter for or on behalf of the client with third parties; (5) Receive, disburse or otherwise handle the client's funds; or (6) Engage in activities which constitute the practice of law. (C) A member may employ, associate professionally with, or aid a disbarred, suspended, resigned, or involuntarily inactive member to perform research, drafting or clerical activities, including but not limited to: (1) Legal work of a preparatory nature, such as legal research, the assemblage of data and other necessary information, drafting of pleadings, briefs, and other similar documents; (2) Direct communication with the client or third parties regarding matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages; or (3) Accompanying an active member in attending a deposition or other discovery matter for the limited purpose of providing clerical assistance to the active member who will appear as the representative of the client. (D) prior to or at the time of employing a person the member knows or reasonably should know is a disbarred, suspended, resigned, or involuntarily inactive member, the member shall serve upon the State Bar written notice of the employment, including a full description of such person's current bar status. The written notice shall also list the activities prohibited in paragraph (B) and state that the disbarred, suspended, resigned, or involuntarily inactive member will not perform such activities. The member shall serve similar written notice upon each client on whose specific matter such person will work, prior to or at the time of employing such person to work on the client's specific matter. The member shall obtain proof of service of the client's written notice and shall retain such proof and a true and correct copy of the client's written notice for two years following termination of the member's employment with the client. (E) A member may, without client or State Bar notification, employ a disbarred, suspended, resigned, or involuntarily inactive member whose sole function is to perform office physical plant or equipment maintenance, courier or delivery services, catering, reception, typing or transcription, or other similar support activities. (F) Upon termination of the disbarred, suspended, resigned, or involuntarily inactive member,</p>	<p>See also, <i>Benninghoff</i>, in which Court stated that a disciplined lawyer “is not the typical layperson – he used to be a lawyer.” This is the foundation for different rules to govern employment of lay people who were not formerly lawyers and lay people who were formerly lawyers.</p>

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		the member shall promptly serve upon the State Bar written notice of the termination.	
Colorado	Rule 5.5 of Rules of Professional Conduct Rule to be effective January 1, 2008	<p>(b) A lawyer shall not employ, associate professionally with, allow or aid a person the lawyer knows or reasonably should know is a disbarred, suspended, or on disability inactive status to perform the following on behalf of the lawyer’s client:</p> <ul style="list-style-type: none"> (1) render legal consultation or advice to the client; (2) appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer; (3) appear on behalf of a client at a deposition or other discovery matter; (4) negotiate or transact any matter for or on behalf of the client with third parties; (5) otherwise engage in activities that constitute the practice of law; or (6) receive, disburse or otherwise handle client funds. <p>(c) Subject to the limitation set forth below in paragraph (d), a lawyer may employ, associate professionally with, allow or aid a lawyer who is disbarred, suspended (whose suspension is partially or fully served)(, or on disability inactive status to perform research, drafting or clerical activities, including but not limited to:</p> <ul style="list-style-type: none"> (1) legal work of a preparatory nature, such as legal research, the assemblage of data and other necessary information, drafting of pleadings, briefs, and other similar documents; (2) direct communication with the client or third parties regarding matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages; and (3) accompanying an active member in attending a deposition or other discovery matter for the limited purpose of providing assistance to the lawyer who will appear as the representative of the client. <p>(d) A lawyer shall not allow a person the lawyer knows or reasonably should know is disbarred, suspended, or on disability inactive status to have any professional contact with clients of the lawyer or of the lawyer’s firm unless the lawyer:</p> <ul style="list-style-type: none"> (1) prior to the commencement of the work, gives written notice to the client for whom the work will be performed that the disbarred or suspended lawyer, or the lawyer on disability inactive status, may not practice law; and (2) retains written notification for no less than two years following completion of the work. <p>(e) Once notice is given pursuant to C.R.C.P. 251.28 or this Rule, then no additional notice is required.</p>	<p>Because this concept is incorporated into the UPL rule, it sets out the rules in terms of what the employing lawyer may engage the disciplined lawyer for.</p> <p>RPC Rule 5.5 does not expressly address employment of disciplined lawyers.</p>
Connecticut	?	?	RPC Rules 5.3 and 5.5 (including amendment effective July 2007) do not expressly address employment of disciplined lawyers.
DC	?	?	RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined

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Delaware	See In re Mekler, 672 A.2d 23 (Del. 1995); In re Frabizzio, Del.Supr., 508 A.2d 468 (1986)	Court precedents allow work by a suspended or disbarred attorney as a paralegal or law clerk under supervision of member of Bar, but prohibit contact with clients, witnesses, or prospective clients or prospective witnesses. <i>“Mekler himself notes in the Request the concern “that the public would observe an attorney, supposedly under suspension for unethical conduct, walking into a law office and would necessarily wonder whether the attorney was actually being disciplined.” Mekler at p. 25.</i>	lawyers. RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined lawyers.
Florida	Rule 3.6 – (Rules of Discipline) Employment of Certain Attorneys or Former Attorneys. Rules Regulating the Florida Bar (Florida Supreme Court) These rules include the Rules of Discipline and Rules of Professional Conduct	<p>RULE 3-6.1 GENERALLY</p> <p>An authorized business entity (as defined elsewhere in these rules) may employ individuals subject to this rule to perform such services only as may ethically be performed by other lay persons employed by authorized business entities:</p> <p>(a) Individuals Subject to This Rule. Individuals subject to this rule are suspended attorneys and former attorneys who have been disbarred, disbarred on consent, or whose disciplinary resignations have been allowed.</p> <p>(b) Definition of Employment. An individual subject to this rule shall be considered as an employee of an authorized business entity if the individual is a salaried or hourly employee or volunteer worker for an authorized business entity, or an independent contractor providing services to an authorized business entity.</p> <p>(c) Employment by Former Subordinates. An individual subject to this rule may not, for a period of 3 years from the entry of the order pursuant to which the suspension, disciplinary resignation, or disbarment became effective, or until the individual is reinstated to the practice of law, whichever occurs sooner, be employed by or work under the supervision of another attorney who was supervised by the individual at the time of or subsequent to the acts giving rise to the order.</p> <p>(d) Notice of Employment. Before employment commences the employer shall provide The Florida Bar with a notice of employment and a detailed description of the intended services to be provided by the employee.</p> <p>(e) Client Contact. No employee shall have direct contact with any client. Direct client contact does not include the participation of the employee as an observer in any meeting, hearing, or interaction between a supervising attorney and a client.</p> <p>(f) Reports by Employee and Employer. The employee and employer shall submit sworn information reports, quarterly based on a calendar year, to The Florida Bar. Such reports shall include statements that no aspect of the employee's work has involved the unlicensed practice of law, that the employee has had no direct client contact, and that the employee did not receive, disburse, or otherwise handle trust funds or property.</p> <p>ETHICS OPINION 62-26, October 24, 1962 Canon: 47 A member of The Florida Bar was suspended and now has pending a petition for reinstatement. He asked whether or not it would be permissible for him to accept employment with a legal firm to do legal research work, not including the drawing of pleadings or other legal documents.</p>	RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined lawyers.

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		<p>Committee is unable to agree, one member believing that it would be proper and citing Drinker at page 53 in which it is suggested that a firm in good standing would do a distinct service to the Court and to the Bar by employing a lawyer who had been suspended and not permanently disbarred. Another member believes that we should not render an opinion, but that the request should be directed to the Committee on Unauthorized Practice, and that it would appear that we are being called on to interpret a Supreme Court order, which we hesitate to do. We all agree that it is not a clear question of ethics.</p> <p>OPINION 62-26 (Reconsideration), December 15, 1986</p> <p>It is permissible for a suspended attorney to be employed by a law firm to perform such work as is permitted of nonlawyer staff, provided that all requirements of Rule 3-6.1 of the Rules Regulating The Florida Bar are met.</p> <p>Rules: Integration Rule 11.10(8); Rule 3-6.1, Rules Regulating The Florida Bar</p> <p>In Opinion 62-26 the Committee declined to respond to a suspended attorney's inquiry concerning the permissibility of his accepting employment with a law firm to do legal research during the period of his suspension. At the time of the inquiry, there was no counterpart to the current Integration Rule 11.10(8), which permits law firms to employ suspended and disbarred attorneys to perform only such work as is permitted of nonlawyer staff. See Rule 3-6.1 of the Rules Regulating The Florida Bar (effective January 1, 1987). Integration Rule 11.10(8) compels the conclusion that it is permissible for a suspended attorney to be employed by a law firm, provided that the attorney and the employing firm comply with the restrictions and requirements of the rule.</p>	
Georgia	RPC 5.3(d)	<p>With respect to a nonlawyer employed or retained by or associated with a lawyer:</p> <p>(a) a partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;</p> <p>(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and</p> <p>(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Georgia Rules of Professional Conduct if engaged in by a lawyer if:</p> <p>(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or</p> <p>(2) the lawyer is a partner in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.</p>	<p>Because the employment of disciplined lawyers appears in RPC Rule 5.3, the restrictions apply primarily to the employing lawyer.</p> <p>RPC Rule 5.5 does not expressly address employment of disciplined lawyers.</p>

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		<p>(d) a lawyer shall not allow any person who has been suspended or disbarred and who maintains a presence in an office where the practice of law is conducted by the lawyer, to:</p> <p>(1) represent himself or herself as a lawyer or person with similar status;</p> <p>(2) have any contact with the clients of the lawyer either in person, by telephone or in writing; or</p> <p>(3) have any contact with persons who have legal dealings with the office either in person, by telephone or in writing.</p> <p>The maximum penalty for a violation of this Rule is disbarment.</p> <p>Comment: <i>[2] The prohibitions of paragraph (d) apply to professional conduct and not to social conversation unrelated to the representation of clients or legal dealings of the law office, or the gathering of general information in the course of working in a law office. The thrust of the restriction is to prevent the unauthorized practice of law in a law office by a person who has been suspended or disbarred.</i></p>	
Hawaii	<p>Rule 5.5 of RPC</p> <p>Rule 2.16(h), Rules of Supreme Court of Hawaii</p>	<p>A lawyer shall not:</p> <p>(a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or</p> <p>(b) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law; or</p> <p>(c) allow any person who has been suspended or disbarred and who maintains a presence in an office where the practice of law is conducted by the lawyer to have any contact with the clients of the lawyer either in person, by telephone, or in writing or to have any contact with persons who have legal dealings with the office either in person, by telephone, or in writing.</p> <p>COMMENT: <i>Paragraph (c) prohibits an attorney who employs or otherwise utilizes a lawyer who is suspended or disbarred, or who resigned in lieu of discipline, from allowing that lawyer to have any contact with the attorney's clients or others who have legal dealing with the attorney's office. In order to protect the public, strict prohibitions are essential to prevent permissible paralegal activities from crossing the line to giving legal advice, taking fees, or misleading clients and others who deal with the attorney's office.</i></p> <p>Rules of the Supreme Court of Hawaii 2.16(h) (h) In the event the disbarred or suspended attorney should maintain a presence in an office where the practice of law is conducted, the disbarred or suspended attorney shall not have any contact with the clients of the office either in person, by telephone, or in writing, or have any contact with persons who have legal dealings with the office either in person, by telephone, or in writing.</p>	<p>This RPC version of 5.5 places a strong restriction on the employing lawyer. (Note: described as proposed for adoption in December 2000 and adopted effective July 1, 2001).</p> <p>The Supreme Court Rule 2.16(h) restricts the disciplined lawyer.</p>
Idaho	?	?	Idaho RPC Rules 5.3 and 5.5 do not

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			address the issue of employment of disciplined lawyers.
Illinois	Illinois Supreme Court Rules: Rule 764 – Duties of a Disciplined Attorney and Attorneys Affiliated with Disciplined Attorney	<p>Rule 764 applies to attorney disbarred, disbarred on consent or suspended for six months or more. Compliance is a condition to reinstatement. Lawyers affiliated with the disciplined lawyer are to take reasonable action necessary to ensure certain compliance and must file with the clerk of the supreme court and serve on the Administrator a certification as to compliance.</p> <p>(b) Withdrawal from Law Office and Removal of Indicia as Lawyer. Upon entry of the final order of discipline, the disciplined attorney shall not maintain a presence or occupy an office where the practice of law is conducted. The disciplined attorney shall take such action necessary to cause the removal of any indicia of the disciplined attorney as lawyer, counsellor at law, legal assistant, legal clerk, or similar title.</p> <p>Any and all attorneys who are affiliated with the disciplined attorney as a partner or associate shall take reasonable action necessary to insure that the disciplined attorney complies with the provisions of paragraphs (a), (b), (c), (d), and (e) below. Within 35 days of the effective date of the order of discipline, each affiliated attorney or a representative thereof shall file with the clerk of the supreme court and serve upon the Administrator a certification setting forth in detail the actions taken to insure compliance with paragraphs (a), (b), (c), (d), and (e) below.</p> <p>See also: In re Frank John Kuta, Attorney, Petitioner, 427 NE2d 136 (1981), the Supreme Court of Illinois held as follows: Without a doubt, a disbarred or suspended attorney should not serve as a law clerk or a paralegal during his disbarment or suspension. The line of demarcation between the work that a paralegal or a law clerk may do and those functions that can only be performed by an attorney is not always clear and distinct. The opportunity for a disbarred or suspended attorney who is serving as a paralegal or a law clerk to violate that line of demarcation is too great and too inviting. Also, the public is not aware of the differences between the work of a paralegal and that of an attorney. For a disbarred attorney to be seen performing what the public may perceive as legal functions can only lessen the public's regard for the effectiveness of our attempt to discipline errant attorneys, and would foment the belief that the public was not being protected from unethical attorneys. (Court did not “view his employment as a law clerk for his former partner as a reason for denying reinstatement. It appears that he accepted this employment in good faith. After the Administrator had objected to his original petition for reinstatement because of his employment, he sought the advice of other attorneys, who informed him that they thought such employment was permissible. However, he, nonetheless terminated his employment as a law clerk and sought employment in non-law-related fields.”</p>	No changes to Rule 5.3 or Rule 5.5 to reflect requirements in Rule 764.
Indiana	IN THE	Per Curiam.	RPC Rules 5.3 and 5.5 do not deal with

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	<p>SUPREME COURT OF INDIANA: IN THE MATTER OF ANONYMOUS, CASE NO. 49S00-0303-DI-97 DISCIPLINARY ACTION, May 5, 2003</p>	<p>The respondent attorney in this attorney disciplinary action hired an attorney who had been suspended from the practice of law to work in her law office, first as a bookkeeper, then as a paralegal. The suspended attorney had been recommended to the respondent by another attorney as “a suspended attorney looking for work.” We find today that the working arrangement was impermissible because of the employee-attorney’s suspension.</p> <p>The respondent and the Indiana Supreme Court Disciplinary Commission have submitted to this Court for approval a Statement of Circumstances and Conditional Agreement for Discipline calling for a private reprimand for the respondent’s actions. To make it clear that it is impermissible for an Indiana attorney to employ a suspended or disbarred attorney to perform work of any kind in a law office, we issue this opinion while preserving the respondent’s anonymity.</p> <p>A suspended or disbarred attorney “shall not maintain a presence or occupy an office where the practice of law is conducted.” Ind. Admission and Discipline Rule 23, Section 26(b) (effective February 1, 1998). An attorney whose license to practice law has been removed is prohibited from maintaining a presence or occupying an office where the practice of law is conducted so the public is not misled into believing that the attorney is still authorized to practice law. See, e.g., Matter of DeLoney, 689 N.E.2d 431 (Ind. 1997) (finding an attorney to be in contempt of this Court for performing various duties in a law office after being disbarred). Accordingly, the analogue to this rule is also clear, especially in light of express provisions delineating a supervising attorney’s obligations regarding legal assistants — an attorney may not employ a suspended or disbarred attorney in her law office. And should the suspended or disbarred attorney’s activities go beyond mere administrative or paraprofessional acts and constitute the practice of law, the employing attorney may well be guilty of violation of additional provisions of the Rules of Professional Conduct for Attorneys at Law. See, e.g., Matter of Scott, 739 N.E.2d 658 (Ind. 2000) (finding that the respondent attorney violated Ind. Professional Conduct Rule 5.5(b), which provides that a lawyer shall not assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law, where the respondent lawyer employed a disbarred lawyer in his law office and where the disbarred lawyer engaged in activities which constituted the practice of law); Matter of Jackson, 682 N.E.2d 526 (Ind. 1997) (same).</p>	<p>employment of disciplined lawyers.</p> <p>Even so, the Court in its disciplinary opinion relied on these rules, and the implications of these rules, to discipline the employing lawyer.</p>
Iowa	<p>Opinion Number: 99-16 - 06/07/2000 Title: GUIDELINES FOR IOWA LAWYERS WHO HAVE BEEN SUSPENDED</p>	<p>3. During suspension you must not practice law, nor hold yourself out as a lawyer or one who can do anything which constitutes the practice of law.</p> <p>4. Obviously the suspended lawyer should stay away from his law office, remove his name from signs in suspensions of more than three months, and not reorder publications holding him out as a lawyer and avoid appearances which would imply his continuing practice of law.</p> <p>7. You may do paralegal work in compliance with Court Rule 118.12.</p>	<p>Iowa RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined attorneys.</p>
Kansas	<p>In the Matter of STANLEY R. JUHNKE, Opinion</p>	<p>"2. The Respondent is charged with assisting a disbarred attorney, Charles K. Hyter, with the unauthorized practice of law. KRPC 5.5(b). A general definition of the 'practice of law' has been quoted with approval as follows:</p>	<p>Kansas RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined attorneys.</p>

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	<p>filed March 8, 2002. Published censure</p>	<p>'As the term is generally understood, the "practice" of law is the doing or performing of services in a court of justice, in any matter depending therein, throughout its various stages, and in conformity to the adopted rules of procedure. But in a larger sense it includes legal advice and counsel, and the preparation of legal instruments and contracts by which legal rights are secured, although such matter may or may not be depending in a court.'</p> <p>State ex rel. v. Perkins, 138 Kan. 899, 907-8, 28 P.2d 765, 769 (1934) (quoting Eley v. Miller, 7 Ind. App. 529, 34 N.E. 836). In addition to that general definition, the Court has set forth what suspended and disbarred attorneys may and may not do:</p> <p>'The consensus is that an attorney suspended from the practice of law may obtain employment as a law clerk, providing there are certain limitations upon the suspended attorney's activities. Regarding limitations, we are persuaded the better rule is that an attorney who has been disbarred or suspended from the practice of law is permitted to work as a law clerk, investigator, paralegal, or in any capacity as a lay person for a licensed attorney-employer if the suspended lawyer's functions are limited exclusively to work of a preparatory nature under the supervision of a licensed attorney-employer and does not involve client contact. Any contact with a client is prohibited. Although not an inclusive list, the following restrictions apply: a suspended or disbarred lawyer may not be present during conferences with clients, talk to clients either directly or on the telephone, sign correspondence to them, or contact them either directly or indirectly.</p> <p>'Obviously, we do not accept that a disbarred or suspended lawyer may engage in all activities that a nonlawyer may perform. By barring contact with the licensed attorney-employer's clients, we prohibit a disbarred or suspended attorney from being present in the courtroom or present during any court proceedings involving clients.' In re Wilkinson, 251 Kan. 546, 553-54, 834 P.2d 1356 (1992) (emphasis added).</p> <p>Attorneys who employ suspended or disbarred attorneys, are 'subject to discipline if the suspended [or disbarred] attorney engages in the unauthorized practice of law or in unethical professional conduct.' Id. at 553. In this case, Mr. Hyter engaged in the unauthorized practice of law while employed as a law clerk for the Respondent. The Respondent was aware that Mr. Hyter met with clients and engaged in other activity that constitutes the practice of law. Mr. Hyter's unauthorized practice of law spanned many years. Accordingly, the Hearing Panel concludes that the Respondent violated KRPC 5.5(b).</p>	
<p>Kentucky</p>	<p>Ethics Opinions KBA E-255 KBA E-256 KBA E-336 (1989)</p>	<p>Generally an “ex-lawyer” may do anything a lay person can do and may perform work which is preparatory and ministerial <i>provided that</i> the ex-lawyer may not have client contact, may not be a paralegal, may not have an office or place within a lawyer’s facility. KBA E-336 modifies this opinion to state that the restrictions survive only for the period of the suspension or disbarment and specifically that a lawyer who has served the period of</p>	<p>SCR 3.130(5.3) and SCR 3.130(5.5) do not expressly address the employment of disciplined lawyers.</p>

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Louisiana	Rule of Professional Conduct 5.5(e)	<p>suspension may be a paralegal.</p> <p>(e)(1) A lawyer shall not:</p> <ul style="list-style-type: none"> (i) employ, contract with as a consultant, engage as an independent contractor, or otherwise join in any other capacity, in connection with the practice of law, any person the attorney knows or reasonably should know is a disbarred attorney, during the period of disbarment, or any person the attorney knows or reasonably should know is an attorney who has permanently resigned from the practice of law in lieu of discipline; or (ii) employ, contract with as a consultant, engage as an independent contractor, or otherwise join in any other capacity, in connection with the practice of law, any person the attorney knows or reasonably should know is a suspended attorney, during the period of suspension, unless first preceded by the submission of a fully executed employment registration statement to the Office of Disciplinary Counsel, on a registration form provided by the Louisiana Attorney Disciplinary Board, and approved by the Louisiana Supreme Court. <p>(e)(2) The registration form provided for in Section (e)(1) shall include:</p> <ul style="list-style-type: none"> (i) the identity and bar roll number of the suspended attorney sought to be hired; (ii) the identity and bar roll number of the attorney having direct supervisory responsibility over the suspended attorney throughout the duration of employment or association; (iii) a list of all duties and activities to be assigned to the suspended attorney during the period of employment or association; (iv) the terms of employment of the suspended attorney, including method of compensation; (v) a statement by the employing attorney that includes a consent to random compliance audits, to be conducted by the Office of Disciplinary Counsel, at any time during the employment or association of the suspended attorney; and (vi) a statement by the employing attorney certifying that the order giving rise to the suspension of the proposed employee has been provided for review and consideration in advance of employment by the suspended attorney. <p>(e)(3) For purposes of this Rule, the practice of law shall include the following activities:</p> <ul style="list-style-type: none"> (i) holding oneself out as an attorney or lawyer authorized to practice law; (ii) rendering legal consultation or advice to a client; (iii) appearing on behalf of a client in any hearing or proceeding, or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, hearing officer, or governmental body operating in an adjudicative capacity, including submission of pleadings, except as may otherwise be permitted by law; (iv) appearing as a representative of the client at a deposition or other discovery matter; (v) negotiating or transacting any matter for or on behalf of client with third parties; (vi) otherwise engaging in activities defined by law or Supreme Court decision as constituting the practice of law. <p>(e)(4) In addition, a suspended lawyer shall not receive, disburse or otherwise handle client funds.</p> <p>(e)(5) Upon termination of the suspended attorney, the employing attorney having direct supervisory authority shall promptly serve upon the Office of Disciplinary Counsel written</p>	<p>Note that Louisiana has made the same distinction we have discussed between disbarred lawyers and other disciplined lawyers. This rule does not address lawyers in a disability inactive status.</p>

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		notice of the termination.	
Maine	?	Apparently has no rule of prohibition; reliance on regulation of UPL.	
Maryland	RPC 5.3(d) And Maryland Rules of Procedure: Rule 16-760(11)	<p>(d) a lawyer who employs or retains the services of a nonlawyer who (i) was formerly admitted to the practice of law in any jurisdiction and (ii) has been and remains disbarred, suspended, or placed on inactive status because of incapacity shall comply with the following requirements:</p> <p>(1) all law-related activities of the formerly admitted lawyer shall be (A) performed from an office that is staffed on a full-time basis by a supervising lawyer and (B) conducted under the direct supervision of the supervising lawyer, who shall be responsible for ensuring that the formerly admitted lawyer complies with the requirements of this Rule.</p> <p>(2) the lawyer shall take reasonable steps to ensure that the formerly admitted lawyer does not:</p> <ul style="list-style-type: none"> (A) represent himself or herself to be a lawyer; (B) render legal consultation or advice to a client or prospective client; (C) appear on behalf of or represent a client in any judicial, administrative, legislative, or alternative dispute resolution proceeding; (D) appear on behalf of or represent a client at a deposition or in any other discovery matter; (E) negotiate or transact any matter on behalf of a client with third parties; (F) receive funds from or on behalf of a client or disburse funds to or on behalf of a client; or (G) perform any law-related activity for (i) a law firm or lawyer with whom the formerly admitted lawyer was associated when the acts that resulted in the disbarment or suspension occurred or (ii) any client who was previously represented by the formerly admitted lawyer. <p>(3) the lawyer, the supervising lawyer, and the formerly admitted lawyer shall file jointly with Bar Counsel (A) a notice of employment identifying the supervising lawyer and the formerly admitted lawyer and listing each jurisdiction in which the formerly admitted lawyer has been disbarred, suspended, or placed on inactive status because of incapacity; and (B) a copy of an executed written agreement between the lawyer, the supervising lawyer, and the formerly admitted lawyer that sets forth the duties of the formerly admitted lawyer and includes an undertaking to comply with requests by Bar Counsel for proof of compliance with the terms of the agreement and this Rule. As to a formerly admitted lawyer employed as of July 1, 2006, the notice and agreement shall be filed no later than September 1, 2006. As to a formerly admitted lawyer hired after July 1, 2006, the notice and agreement shall be filed within 30 days after commencement of the employment. Immediately upon the termination of the employment of the formerly admitted lawyer, the lawyer and the supervising lawyer shall file with Bar Counsel a notice of the termination.</p> <p>Court noted that language of 5.3(d) was derived from language from PA Rules of Disciplinary Enforcement, Rule 217(j).</p>	

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		<p>Rule 16-760 (11) If the respondent is or becomes employed or retained by or associated with a lawyer, the respondent shall comply with Rule 5.3 (d) of the Maryland Lawyers’ Rules of Professional Conduct and assist the supervising lawyer in complying with the supervising lawyer’s obligations under the Rule.</p> <p>Prior subsection (2) was deleted. It had stated: “work as a paralegal for or as an employee of an attorney;”</p>	
Massachusetts	<p>Supreme Judicial Court Rule 4:01 Section 17(7); See also N. Kaufman (First Assistant Bar Counsel), “The Prohibition Against Employment of Suspended or Disbarred Lawyers”</p>	<p>Section 17(7): Except as provided in section 18(4) of this rule, no lawyer who is disbarred or suspended, or who has resigned or been placed on disability inactive status under the provisions of this rule shall engage in paralegal work, and no lawyer or law firm shall knowingly employ or otherwise engage, directly or indirectly, in any capacity, a person who is suspended or disbarred by any court or has resigned due to allegations of misconduct or who has been placed on disability inactive status. Employment as paralegal.</p> <p>Section 18(3): At any time after the expiration of the period of suspension specified in an order of suspension, or after the expiration of four years in a case in which an indefinite suspension has been ordered, or after the expiration of seven years in a case in which disbarment has been ordered or a resignation has been allowed under section 15 of this rule, a lawyer may move for leave to engage in employment as a paralegal. The court may allow such motion subject to whatever conditions it deems necessary to protect the public interest, the integrity and standing of the bar, and the administration of justice.</p>	<p>Supreme Court Rule; applicable both to the employing lawyer and the employed but disciplined lawyer.</p> <p>Note rules allowing disciplined lawyers to apply to be able to do paralegal work after certain time periods have elapsed.</p> <p>None of this is incorporated into 5.5 of RPC.</p>
Michigan	<p>Ethics Opinion C-211 July, 1972</p> <p>No indication as to any modification that may have been made in this Opinion.</p> <p>Followed in Ethics Opinion CI-602 February 27, 1981</p>	<p>Opinion C-211 SYLLABUS</p> <p>The employment by a lawyer or law firm of a disbarred or suspended lawyer to perform any acts of a legal or quasi-legal nature, even under close supervision and scrutiny of the employer, is improper.</p> <p>A disbarred or suspended lawyer may not be employed as a "paralegal assistant" by a lawyer or law firm in good standing.</p> <p>While it would not be improper per se for a lawyer or law firm in good standing to employ a disbarred or suspended lawyer in some strictly nonprofessional capacity such as a caretaker, chauffeur or for the performance of other duties which would in no way permit even a suspicion that the suspended lawyer is engaged in the practice of law, because of the need of the profession to retain the complete confidence of the public which might be diminished upon the suspicion that an employee of a lawyer is not trustworthy, the lawyer should not extend such employment.</p> <p>References: MCPR Canon 3; MCPR DR 3-101.</p> <p>CI-602</p>	<p>RPC Rules 5.3 and 5.5 do not expressly address the employment of disciplined attorneys.</p> <p>Ethics Opinion C-211 relies on ABA Informal Opinion 7.</p> <p>Note that both Ethics Opinions were written under the Michigan Code of Professional Conduct.</p>

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		<p>SYLLABUS</p> <p>Employment of a disbarred or suspended lawyer in any capacity that would place that individual in a law office, law library, or other setting creating the impression that the licensed lawyer is permitting the disbarred or suspended or otherwise giving the appearance of aiding that person to subvert the action of the Disciplinary Board is unethical and prohibited.</p> <p>References: MCPR Canons 1 and 9, DR 3-101(A); C-211.</p> <p>[T]he Committee believes that it is inappropriate for a lawyer to employ a disbarred or suspended lawyer in any capacity that would place that individual in a law office, law library, or other setting, which would create the impression that the licensed lawyer is in some way permitting the disbarred or suspended lawyer to undermine the disbarment or suspension or otherwise give the appearance of aiding that person to subvert the action of the disciplinary authority. MCPR Canon states that "A lawyer should avoid even the appearance of professional impropriety", and MCPR Canon 1 provides that a lawyer should assist in maintaining the integrity and competence of the legal profession.</p>	
Minnesota	Rule 5.8, Minnesota Rules of Professional Conduct	<p>Rule 5.8 – Employment of Disbarred, Suspended, or Involuntarily Inactive Lawyers</p> <p>(c) A lawyer may employ, associate professionally with, or aid a disbarred, suspended, or disability inactive lawyer to perform research, drafting, clerical, or similar activities, including but not limited to:</p> <p>(1) performing legal work of a preparatory nature for the active lawyer’s review, such as legal research, gathering information, and drafting pleadings, briefs, and other similar documents;</p> <p>(2) directly communicating with the client or third parties regarding matters such as scheduling, billing, updates, information gathering, and confirmation of receipt or sending of correspondence and messages; or</p> <p>(3) accompanying an active lawyer to a deposition or other discovery matter for the limited purpose of providing clerical assistance to the active lawyer who will appear as the representative of the client.</p> <p>(d) Prior to or at the time of employing a person the lawyer knows or reasonably should know is a disbarred, suspended, or disability inactive lawyer, the lawyer shall serve upon the Office of Lawyers Professional Responsibility written notice of the employment, including a full description of such person’s current license status. The notice shall state that the suspended, disbarred, or disability inactive lawyer shall not be employed to perform any of the activities prohibited by paragraph (b).</p> <p>(e) Upon terminating the employment of the disbarred, suspended, or disability inactive lawyer, the employing lawyer shall promptly serve upon the Office of Lawyers Professional Responsibility written notice of the termination.</p>	See similarity to rules in CA and CO, among others.
Mississippi	Ethics Opinion NO. 96 OF THE	The Ethics Committee of the Mississippi State Bar has been requested to render an opinion on the following situation:	RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined

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	<p>MISSISSIPPI STATE BAR JUNE 7, 1984 Editor's Note: Refer to Rule 5.5.</p>	<p>Is it proper for an attorney to allow or employ a disbarred or suspended attorney to work as a paralegal or legal assistant in the attorney's law office. In particular is it proper for the attorney to allow the disbarred or suspended attorney to interview clients, draft pleadings, do legal research or perform title examinations.</p> <p>An attorney's allowing a disbarred or suspended attorney to work as a paralegal or legal assistant in the attorney's law office would not only "show disrespect to the courts" but would be "prejudicial to the administration of justice."</p> <p>Therefore, it is the opinion of this Committee that it would not be proper for an attorney to allow a disbarred or suspended attorney to work as a paralegal or legal assistant in the attorney's law office.</p>	<p>lawyers.</p>
<p>Missouri</p>	<p>Ethics Opinion Number: 970045 and Ethics Opinion Number: 960228 Opinions refer to RPC Rule 5.5</p>	<p>Opinion Number 970045 Attorney wishes to employ a disbarred attorney. May the disbarred attorney: (1) act as an adjuster to negotiate settlements as long as licensed attorneys advise how much to accept in settlement; (2) accept the signature of a potential client on a lawyer/client contract which will be signed by a licensed attorney later; (3) request and gather medical records, police reports and other investigatory functions; (4) review and organize those types of records and other investigation material; (5) meet with the client after the client has accepted the settlement offer and explain the client's settlement summary and accept the client's signature of the release, insurance draft and settlement summary? ANSWER: The status of a disbarred lawyer is the same as any other non-attorney. (1) A non-attorney may not work for Attorney as a private adjuster. (2) A non-attorney may accept the signature on a lawyer/client contract, if that is all that is involved. However, the non-attorney may not explain the terms of the contract to the client. Therefore, it will be necessary for the client to meet with an attorney to have the contract explained prior to meeting with a non-attorney to sign the contract. (3) A non-attorney may request and gather medical records and police reports and perform other investigatory functions. (4) A non-attorney may review and organize medical records, police reports and other investigation material. (5) A non-attorney may meet with the client to explain the source of the figures on the settlement summary and the calculations involved. However, if there are any questions or an additional explanation is necessary, it would be necessary for the client to meet with an attorney. The non-attorney may not explain the legal impact of the settlement, including the finality of a full and final settlement.</p> <p>Opinion Number: 960228 QUESTION: May Attorney hire a disbarred attorney as a paralegal? ANSWER: Attorney may use the disbarred attorney in the same manner as any other non-attorney. A non-attorney may prepare a draft of many different types of documents and may perform various support services, such as interviewing witnesses, as long as a licensed attorney adequately supervises</p>	<p>CPR Rules 5.3 and 5.5 do not expressly address employment of disciplined lawyers. Note, however, that the ethics opinions dealing with this topic refer to RPC Rule 5.5.</p>

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		those acts. In the case of a disbarred attorney, Attorney must make certain that no one is misled into believing that the disbarred attorney is anything other than a non-attorney and special care must be taken that the disbarred attorney does not cross the line into giving legal advice.	
Montana	?	?	RPC Rules 5.3 and 5.5 do not expressly address the employment of disciplined lawyers.
Nebraska	Nebraska Ethics Advisory Opinion For Lawyers 96-1	<p>[A]ttorney A wishes to hire the suspended attorney as a legal assistant. If the suspended attorney was hired, attorney A would not give him any greater access to clients than he gives other paralegals or law clerks. I f attorney A were to hire the suspended attorney, he would advise clients that the suspended attorney is not a lawyer but rather a paralegal. The suspended attorney would work under the direct supervision and control of attorney A.</p> <p>In Formal Opinion 78-5, we determined that an attorney who is temporarily suspended from the practice of law may not engage in any law-related activity or business including, but not limited to, preparing pleadings or doing research for other lawyers. The reason for such a determination is based upon several ethical considerations including maintaining the integrity and competence of the legal profession (Canon 1), the prevention of the unauthorized practice of law (Canon 3), and avoiding even the appearance of professional impropriety (Canon 9).</p> <p>One of the few jurisdictions addressing the subject in a reported opinion and which has allowed the retention of a suspended attorney as a law clerk held that such an arrangement is permissible under the following conditions:</p> <p>A suspended attorney is permitted to work as a law clerk, investigator, paralegal, or in any other capacity as a non-lawyer for a licensed attorney/lawyer if the suspended lawyer's functions are limited to work of a preparatory nature under the attorney-employer's supervision and does not involve client contact. The suspended or disbarred lawyer may not be present during conferences with clients, talk to clients directly or on the telephone, sign correspondence to them, contact them, sign pleadings, or appear in court. In Re: Wilkinson, 834 P.2d 1356 (Kan. 1992). Under Wilkinson, any client contact would run afoul of the Code of Professional Responsibility.</p> <p>The majority of jurisdictions addressing this issue have held that a suspended attorney may not be employed as a clerk or paralegal at a law firm during his term of suspension. See Mississippi Ethics Opinion 171 (6/22/90; Rhode Island Ethics Opinion 90-12 (2/27/90) (stating such hiring would constitute professional misconduct as being prejudicial to the administration of justice); South Carolina Ethics Opinion 92-20 (7/92); Kentucky Ethics opinion E-253 (1982); Michigan Ethics Opinion C1-602 (2/27/81); Tennessee Ethics Opinion 85-F-50 (8/12/83).</p>	RPC Rules 5.3 and 5.5 do not expressly address the employment of disciplined lawyers.

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		<p>The Nebraska Supreme Court has authorized a lawyer to function in a non-lawyer paralegal and/or law clerk capacity in two cases. N.S.B.A. vs. Fitzgerald, 227 Neb. 90; 416 N.W.2d 28 (1987) and N.S.B.A. vs. Garvey, 235 Neb. 737, 457 N.W.2d 297 (1990). Both of these cases, however, involved a conditional admission of charges pursuant to Neb. Disciplinary Rule 13.</p> <p>In the present situation, the lines of demarcation become even less distinct because the suspended lawyer will be performing tasks as a paralegal at a firm he was associated with at the time of his suspension. This may give the appearance of continued legal services even though the attorney has been suspended.</p> <p>In State Ex Rel. Nebraska State Bar Assn. v. Butterfield, 172 Neb. 645, 111 N.W.2d 543 (1961), the issue before the court was whether a suspended lawyer violated his suspension by preparing deeds, mortgages, releases and income tax returns during his suspension. The court stated:</p> <p>A suspended lawyer, who in connection with his law office engages in other activities, is in no different position than the active lawyer who confines himself solely to the practice of law in determining if the suspension order was violated. Where one is generally known in the community as a lawyer, it might well be impossible to divorce two occupations closely related if the rule was otherwise.</p> <p>Id. at 649, 111 N.W.2d at 546. Based on Butterfield, therefore, attorney A's prior association with the suspended lawyer would prevent the retention of the suspended attorney as a paralegal.</p> <p>A suspended attorney may be employed as a paralegal and/or law clerk if the employment is at a place and in such a manner as to not give the appearance of practicing law. A suspended attorney may not be employed as a paralegal and/or law clerk at an office where he or she previously shared office space or practiced law. Opinion 87-5 is so modified</p>	
Nevada			RPC Rules 5.3 and 5.5 do not expressly address the employment of disciplined lawyers.
New Hampshire	Practical Ethics Article – http://www.nhbar.org/pdfs/PEA3-92.pdf	No definitive position by NH S. Ct.: could be read to say Ct. exercises no jurisdiction over post-disbarment activities absent violation of disbarment conditions. To be considered in decision: UPL violations and potential for misleading clients and public. In absence of other ruling, follow NH S. Ct. Rule 35 re employment of non-lawyer assistants; no legal advice, no direct client contact; research and documents to be reviewed carefully; consider any notice necessary to clients; consider in contacts with public (witnesses) potential for confusion and give notice of status. Lawyers in disciplinary status	No change to Rule 5.5 in newly revised RPC (effective 2008)

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		should be carefully supervised, consistent with RPC Rule 5.3. Comply closely with RPC 7.1 and 7.5 to avoid confusion of lawyers and public as to status of employee.	
New Jersey	Rule 1:20-20 New Jersey Rules of Court – Rules of General Application	1:20-20 - Future Activities of Attorney Who Has Been Disciplined or Transferred to Disability-Inactive Status (a) Prohibited Association. No attorney or other entity authorized to practice law in the State of New Jersey shall, in connection with the practice of law, employ, permit or authorize to perform services for the attorney or other entity, or share or use office space with, another who has been disbarred, resigned with prejudice, transferred to disability- inactive status, or is under suspension from the practice of law in this or any other jurisdiction. (b) Notice to Clients, Adverse Parties and Others. An attorney who is suspended, transferred to disability-inactive status, disbarred, or disbarred by consent or equivalent sanction: (1) shall not practice law in any form either as principal, agent, servant, clerk or employee of another, and shall not appear as an attorney before any court, justice, judge, board, commission, division or other public authority or agency; (2) shall not occupy, share or use office space in which an attorney practices law;	Rule 5.5 does not address. Rule 1:20-20 applies to both the employer and the employed disciplined attorney.
New Mexico	RPC 16-505 B and C	16-505. Unauthorized practice of law; multijurisdictional practice of law. A. A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction or assist another in doing so. B. A lawyer shall not employ or continue the employment of a disbarred or suspended lawyer as an attorney. C. A lawyer shall not employ or continue the employment of a disbarred or suspended lawyer as a law clerk, a paralegal or in any other position of a quasi-legal nature if the suspended or disbarred lawyer has been specifically prohibited from accepting or continuing such employment by order of the Supreme Court or the disciplinary board. See also: RULES GOVERNING PARALEGAL SERVICES 20-101 – Commentary: Persons not meeting the definition of a paralegal or attorneys who have been disbarred or suspended from the practice of law by the State of New Mexico or any other jurisdiction are discouraged from using the designation “paralegal”. Attorneys are also discouraged from using the designation “paralegal” to identify non-lawyer support staff unless such staff qualifies as a paralegal pursuant to these rules.	
New York	Case law	In re Sol ROSENBLUTH, 320 N.Y.S.2d 839, 36 A.D.2d 383, (1971) (attorney suspended for three years allowed to operate a “calendar watching service” – with one dissent (A suspended or disbarred attorney holds approximately the same status as one who has never been admitted (7 Am.Jur.2d § 19, p. 53)). Matter of Rowe, 590 N.Y.S.2d 179, 80 N.Y.2d 336, 604 N.E.2d 728 (1992). Where suspended lawyer wrote article concerning right to refuse treatment for mentally ill,	The question is treated as a UPL question. Answer varies. New York City: Assoc. of the Bar of the City of New York Op. 1998-1 (1998) has good summary.

<u>State</u>	<u>Source of Information</u>	<u>Description</u>	<u>Comment</u>
		<p>and used “JD” as part of description of author, Court reversed sanction for publication of article, stating, “The Appellate Division, by applying its order to foreclose him from doing so, improperly "prohibit[ed] him from engaging in endeavors which he could have undertaken had he never been admitted to the Bar in the first place" (see, Matter of Rosenbluth, 36 A.D.2d 383, 384, 320 N.Y.S.2d 839).</p> <p>New York City: Assoc. of the Bar of the City of New York Op. 1998-1 (1998) - CODE:DR3-101(A); DR1-102(A)(4); EC3-6. To question” Under what circumstances, if any, may an attorney in good standing employ a disbarred or suspended attorney to work in a law office?” Opinion holds: It is clearly improper for a lawyer or law firm to employ a disbarred or suspended attorney in any capacity related to the practice of law. What acts constitute the unauthorized practice of law is a question of law for the Appellate Division. Generally – and unsettled question.</p>	
North Carolina	Rule 5.5(e)& (f) Rules of Professional Conduct	<p>(e) A lawyer or law firm shall not employ a disbarred or suspended lawyer as a law clerk or legal assistant if that individual was associated with such lawyer or law firm at any time on or after the date of the acts which resulted in disbarment or suspension through and including the effective date of disbarment or suspension.</p> <p>(f) A lawyer or law firm employing a suspended or disbarred lawyer as a law clerk or legal assistant shall not represent any client represented by the disbarred or suspended lawyer or by any lawyer with whom the disbarred or suspended lawyer practiced during the period on or after the date of the acts which resulted in disbarment or suspension through and including the effective date of disbarment or suspension.</p> <p>Note 11 states that employment of disbarred or suspended lawyers is subject to restriction: a licensed attorney must take full responsibility for research, investigation, briefs, pleadings or other documents drafted by such individual. The individual may not directly advise clients or communicate in person or in writing in a way that implies the individual is an attorney. An affirmative statement (notice) may be necessary in some cases to avoid confusion. Payment should be on a fixed basis and not on the basis of fees generated on matters worked on by the disciplined lawyer.</p>	Note that this rule regulations by restricting the activity of the employer (lawyer or law firm) but only an employer formerly associated with the disciplined lawyer. This rule does not appear to regulate the disciplined lawyer’s behavior directly. This rule does not address employment other than as a law clerk or legal assistant. This rule does not address employment of a lawyer on disability inactive status.
North Dakota	Supreme Court of North Dakota – Ruling in Reinstatement matter	<p>IN THE SUPREME COURT STATE OF NORTH DAKOTA In the Matter of the Application of Elmo T. Christianson for Reinstatement to the Bar of the State of North Dakota, File No. 8520 & File No. 8761</p> <p>Syllabus by the Court</p> <p>1. A suspended attorney has the burden of clearly establishing his qualifications for reinstatement by sufficient proof to overcome the prior adverse judgment leading to his</p>	RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined lawyers.

<u>State</u>	<u>Source of Information</u>	<u>Description</u>	<u>Comment</u>
		<p>suspension.</p> <p>2. A suspended attorney who draws and supervises the execution of a will and obtains articles of incorporation for another is engaged in the unauthorized practice of law.</p> <p>3. A disbarred or suspended attorney engages in the unauthorized practice of law when he performs services customarily performed by licensed attorneys which require legal expertise, even though such acts may lawfully be performed by laymen in some circumstances, unless his qualifications to perform such services derive from sources other than his law training and law experience.</p> <p>4. A disbarred or suspended attorney may be employed as a law clerk by a licensed attorney.</p>	
Ohio	Gov. Bar R. V(8)(G) Supreme Court Rules for Government of Bar of Ohio	<p>G)(1) Employment of a Suspended Attorney. A suspended attorney may be employed by another attorney during the term of suspension, provided the employment of the suspended attorney does not involve the practice of law. The suspended attorney and employing attorney shall register the employment with the Disciplinary Counsel on a form prescribed by the Disciplinary Counsel that includes all of the following:</p> <p>(a) A statement that the suspended attorney will not perform work in the course of his or her employment that constitutes the practice of law;</p> <p>(b) A statement that the employing attorney will supervise and be responsible for the work of the suspended attorney to ensure that the suspended attorney does not engage in the practice of law;</p> <p>(c) Any other information considered necessary by the Disciplinary Counsel.</p> <p>(2) The Disciplinary Counsel shall provide a copy of the completed form to each appropriate Certified Grievance Committee. (See Employment of a Suspended Attorney Registration Form.)</p> <p>Ohio Supreme Court - BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE, OPINION 90-6, Issued April 20, 1990 (under Code of Professional Responsibility)</p> <p>A suspended lawyer has no lesser right to work as a paralegal than a non-lawyer, and no greater right to practice law than a non-lawyer. Wolfram, Modern Legal Ethics 848 (West, 1986) (rejecting . ABA Committee on Ethics and Professional Responsibility, Informal Op. 1434 (1979).</p> <p>A suspended lawyer may work in a law office as long as he or she does not practice law and is closely supervised by a licensed lawyer. The supervising lawyer is responsible for the actions of the suspended lawyer and can be disciplined for assisting in the unauthorized practice of law under DR 3-101.</p>	

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<u>State</u>	<u>Source of Information</u>	<u>Description</u>	<u>Comment</u>
		<p>. . . . a suspended or disbarred attorney is not prohibited from working as a non-lawyer paralegal or similar position in a law office. It is the responsibility of the law office to exercise close supervisory control over all non-lawyer employees to prevent any unauthorized practice of law. The suspended lawyer acting as a paralegal must comply with any rules or regulations governing paralegals in Ohio and perform only those duties permissible for a paralegal. However, a suspended lawyer's permitted activities are restricted by the specific language of the Supreme Court's Order of Suspension.</p>	
Oklahoma	<p>Oklahoma Ethics Opinion No. 293</p> <p>Adopted May 20, 1978</p>	<p>Oklahoma Ethics Opinion No. 293</p> <p>INQUIRY</p> <p>Is it proper for an attorney in Oklahoma to employ in his law office an individual who was formerly a licensed attorney in the State of Oklahoma, but is presently suspended from the practice of law or who has been disbarred? If it is proper for an attorney to employ such an individual, what duties can the suspended or disbarred attorney perform while engaged in such employment?</p> <p>OPINION</p> <p>The Code of Professional Responsibility, Canon 3, imposes an affirmative duty upon lawyers to assist in preventing the unauthorized practice of law.</p> <p>It is apparent from a consideration of Canon 3 of the Code of Professional Responsibility that an attorney who employs a suspended or disbarred lawyer to work in the law office of the practicing attorney undertakes a course of conduct which offers the opportunity for the disbarred or suspended attorney to continue to engage in the practice of law. The same possibility, of course, exists without regard to whether or not the suspended or disbarred attorney is employed in a law office by a licensed practitioner.</p> <p>This circumstance is mentioned by the Committee only to point out to a licensed attorney the serious responsibility which he undertakes by reason of Canon 3 when a suspended or disbarred attorney is employed to work for the licensed practitioner.</p> <p>The Committee is of the opinion that it is not ethically improper or in any manner illegal for a licensed attorney to employ in his law office an individual who was formerly a licensed attorney but who has been suspended or disbarred from the practice of law. However, Ethical Consideration 3_6, Code of Professional Responsibility, clearly states the limits of the activities which the former lawyer may properly conduct as an employee of the practicing attorney. The relationship of attorney-client must always be between the licensed attorney and the client. The licensed attorney must in fact perform those functions which constitute the "practice of law" in an office where non-lawyer personnel are employed. Ethical Consideration 3-6, Code of Professional Responsibility.</p>	<p>RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined attorneys.</p>

<u>State</u>	<u>Source of Information</u>	<u>Description</u>	<u>Comment</u>
		<p>Ethical Consideration 3-5, Code of Professional Responsibility, wisely provides that "it is neither necessary nor desirable to attempt the formulation of a single, specific definition of what constitutes the practice of law. Functionally, the practice of law relates to rendition of services for others that call for the professional judgment of a lawyer."</p> <p>The judgment to be exercised in the handling of specific legal matters is necessarily the judgment of the licensed practitioner. The licensed practitioner must accept and exercise complete responsibility for all actions performed within his office which constitute the "practice of law."</p> <p>The case of R.J. Edwards, Inc., et al., v. Hert, et al., 504 P.2d 407 (Okla., 1972) deals with the question of what constitutes the "practice of law" in the State of Oklahoma. This decision considered and determined whether certain specific types of conduct engaged in by municipal bond marketers and their agents in assisting the officials of governmental entities to authorize and market bonds amounted to the unauthorized practice of law. Since, in effect, the bond marketing companies and their agents merely utilize forms and procedures prescribed by the Attorney General, who in law was the Attorney for the governmental entities, the Court concluded that the challenged conduct did not amount to the unauthorized practice of law. The question of whether or not particular conduct amounts to the practice of law is clearly a factual question in each case:</p> <p>"It will be necessary for cases in the future to fully develop the facts in order to determine if the conduct of a particular business constitutes an enjoined practice of law." Ibid. at 419.</p> <p>See also, Ethics Opinion No. 319, Adopted December 13, 2002</p> <p>TOPIC: Whether certain tasks delegated to a disbarred lawyer constitutes the unauthorized practice of law</p> <p>INQUIRY: Whether a "legal assistant" who previously "lost his license to practice" would be engaging in the unauthorized practice of law in violation of Rule 5.5 of the Oklahoma Rules of Professional Conduct ["ORPC"] and Rule 11.5 of the Oklahoma Rules Governing Disciplinary Proceedings ["ORGDP"] if he conducted the questioning of a witness at a deposition in a pending civil case in the presence and under the supervision of an attorney duly licensed by the Oklahoma Supreme Court?</p> <p>ABSTRACT: Rule 5.5(b) of the ORPC prohibits a lawyer from "assist[ing] a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law." Okla. Stat. Ann. tit. 5 ch. 1 App. 3-A. The Comment to Rule 5.5 provides that a lawyer may delegate functions to non-lawyer assistants "so long as the lawyer supervises the delegated work and retains responsibility for their work." Nevertheless, a</p>	

<u>State</u>	<u>Source of Information</u>	<u>Description</u>	<u>Comment</u>
		<p>lawyer may not delegate the professional function of a lawyer to a non-lawyer assistant. The professional functions of an attorney include conducting formal proceedings on behalf of a client such as asking questions of a witness at a deposition.</p> <p>In addition, Rule 11.5(b) of the ORGDP requires that pursuant to a petition for reinstatement, a finding must be made whether, "the applicant has engaged in any unauthorized practice of law during the period of suspension, disbarment, or resignation." Okla. Stat. Ann. tit. 5 ch. 1 App. 1-A. Therefore, a "legal assistant" who previously "lost his license to practice law" should not conduct the questioning of a witness at a deposition in a pending civil case, even in the presence and</p>	
Oregon	<p>FORMAL OPINION NO. 2005-24 Unauthorized Practice of Law: Employing and Compensating Nonlawyers and Disbarred and Suspended Lawyers</p> <p>See also: “Suspended Animation: A Lawyer’s Life as a Legal Assistant,” Oregon Bar Bulletin, January 2006</p>	<p>FORMAL OPINION NO. 2005-24 Facts: Lawyer wishes to employ suspended or disbarred lawyers to assist Lawyer in performing functions that do not include giving legal advice and can lawfully be performed by nonlawyers, such as legal assistants or law clerks. Question: May Lawyer do so? Conclusion: Yes, qualified. Discussion: Oregon RPC 5.5(a) provides that “[a] lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.” Also potentially relevant is Oregon RPC 5.4(a), which provides that “[a] lawyer or law firm shall not share legal fees with a nonlawyer” except in certain circumstances not material to this opinion. Suspended or disbarred lawyers may not practice law and may not receive a share or percentage of legal fees earned by Lawyer on any specific case. However, this does not preclude other forms of compensation. Compare <i>In re Kraus</i>, 295 Or 743, 670 P2d 1012 (1983) (refusing to reinstate suspended lawyer who continued to practice law during suspension period)¹, with <i>State ex rel Oregon State Bar v. Lenske</i>, 284 Or 23, 584 P2d 759 (1978) (dismissing contempt proceedings against suspended lawyer when suspended lawyer’s discussions with clients and Formal Opinion No. 2005-24 drafting of documents during suspension period were either in presence of or supervised and approved by licensed lawyers). Approved by Board of Governors, August 2005. COMMENT: For additional information on this general topic and related subjects, see THE ETHICAL OREGON LAWYER §§12.9, 12.11 (Oregon CLE 2003); ORS 9.160–9.166; RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS §§3–4 (2003); and ABA Model Rule 5.5. Footnote: 1 See also <i>In re Koliha</i>, 330 Or 402, 9 P3d 102 (2000) (lawyer filed pleadings on behalf of client and appeared in court, holding herself out as active bar member, when in fact she was suspended from practice of law); <i>In re Whipple</i>, 320 Or 476, 886 P2d 7 (1994) (suspended lawyer’s discussions with client regarding probate and duties of personal representative constituted unlawful practice of law).</p>	RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined attorneys

<u>State</u>	<u>Source of Information</u>	<u>Description</u>	<u>Comment</u>
		<p>“Suspended Animation: A Lawyer’s Life as a Legal Assistant,” Oregon Bar Bulletin, January 2006: Oregon does not prohibit suspended lawyers from working in law offices and performing tasks that may be performed by other non-lawyers, including legal assistants. See, e.g., OSB Legal Ethics Op No 2005-24.. Article notes importance of subordinate position of disciplined lawyer and that the disciplined lawyer may not give legal advice. Case law is cited for principle that a suspended lawyer may compose and draft legal documents so long as they re reviewed by member in good standing. Payment should be salary or hourly and not dependent on fees received in case.</p>	
<p>Pennsylvania</p>	<p>Rules of Disciplinary Enforcement, Rule 217. Rule 91.200 (Subsection E – Formerly Admitted Attorneys) See also: Ethics Opinion 2005-10 (July 2005)</p>	<p>“(j) A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements: (1) All law-related activities of the formerly admitted attorney shall be conducted under the direct supervision of a member in good standing of the Bar of this Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this subdivision (j). If the formerly admitted attorney is employed by a law firm, an attorney of the firm shall be designated by the firm as the supervising attorney for purposes of this subdivision. (2) For purposes of this subdivision (j), the only law-related activities that may be conducted by a formerly admitted attorney are the following: (i) legal work of a preparatory nature, such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents; (ii) direct communication with the client or third parties to the extent permitted by paragraph (3); and (iii) accompanying a member in good standing of the Bar of this Commonwealth to a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member in good standing who appears as the representative of the client. (3) A formerly admitted attorney, organization may have direct communication with a client or third party regarding a matter being handled by the attorney or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages. The formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney.</p> <p>See Rule for additional, specific prohibitions, including receipt or disbursement of client funds, and specific notice requirements.</p> <p>This rule is “not intended to prohibit a formerly admitted attorney from performing services that are not unique to law offices, such as physical plant or equipment maintenance, courier or delivery services, catering, typing or transcription or other similar general office support activities.”</p>	<p>RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined attorneys</p> <p>Rule 217 binds employed former attorney and employing attorney.</p>

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		See also, Rule 91.100 – with similar provisions and directed to the formerly admitted attorney.	
Rhode Island	Provisional Order No. 18 – Use of Legal Assistants Appended to RPC 5.3 following Comments; Rhode Island, Ethics Advisory Opinion 93-28 (May 1993) Rhode Island, Ethics Advisory Opinion 93-28 (May 1993)	Provisional Order No. 18 – Item 10. A lawyer shall not use or employ as a legal assistant any attorney who has been suspended or disbarred pursuant to an order of this Court, or an attorney who has resigned in this or any other jurisdiction for reasons related to breach of ethical conduct. Ethics Advisory Opinion 98-28: “An attorney asks whether a suspended attorney may accept employment as a legal assistant or paralegal in a law firm.” Answer: “Pursuant to this Provisional Order [Provisional Order No. 18], the attorney may not hire a suspended attorney as a paralegal or assistant in the law firm.” Ethics Advisory Opinion 93-28: Relying on Provisional Order No. 18, Advisory Panel states that an attorney may not hire as a paralegal a lawyer who has been suspended after a federal conviction unrelated to the practice of law and now eligible for work release.	RPC Rule 5.5 does not expressly address employment of disciplined lawyers.
South Carolina	Rules for Lawyer Disciplinary Enforcement. South Carolina Judicial Department RULE 34 EMPLOYMENT OF DISBARRED OR SUSPENDED LAWYERS	RULE 34 EMPLOYMENT OF DISBARRED OR SUSPENDED LAWYERS A lawyer who is disbarred, suspended or transferred to incapacity inactive status shall not be employed directly or indirectly by a member of the South Carolina Bar as a paralegal, investigator or in any other capacity connected with the practice of law, nor be employed directly or indirectly in the State of South Carolina as a paralegal, investigator or in any capacity connected with the practice of law by a lawyer licensed in any other jurisdiction. Additionally, a lawyer who is disbarred, suspended or transferred to incapacity inactive status shall not serve as an arbitrator, mediator or third party neutral in any Alternative Dispute Resolution proceeding in this state nor shall any member of the South Carolina Bar directly or indirectly employ a lawyer who has been disbarred, suspended or transferred to incapacity inactive status as an arbitrator, mediator or third party neutral in any Alternative Dispute Resolution proceeding. Any member of the South Carolina Bar who, with knowledge that the person is disbarred, suspended or transferred to incapacity inactive status, employs such person in a manner prohibited by this rule shall be subject to discipline under these rules. A disbarred or suspended lawyer who violates this rule shall be deemed in contempt of the Supreme Court and may be punished accordingly. Last amended by order dated May 3, 2006, effective immediately.	RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined attorneys
South Dakota	See the PETITION OF STEVEN L. PIER, For Reinstatement to the Practice of Law, South Dakota	Indirect evidence: In the Matter of the PETITION OF STEVEN L. PIER Court noted with approval in Paragraph [¶]15: Pier worked as a paralegal following his disbarment. Gerald Reade and Frank Brady, reputable, longtime members of the South Dakota Bar, employed him in their office to research, investigate, and prepare court documents. Consequently, Pier has kept current particularly in the matters in which Reade	RPC Rules 5.3 and 5.5 do not expressly address employment of disciplined attorneys. The Petition of Steven Pier suggests that the court found the disbarred

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	Supreme Court, Original Proceeding, #19850 Opinion Filed Mar 5, 1997 Indirect evidence.	practices, including personal injury, products liability, and workers' compensation. Both Reade and Brady testified at the Board hearing that they found Pier to be trustworthy, competent, and diligent. Brady is a former bar president, legislator, and mayor. Accordingly, the Board gave these endorsements appreciable weight. Further, there was no evidence Pier overstepped his duties as a paralegal and crossed over into the unauthorized practice of law. A Sioux Falls lawyer attested to this fact recounting that, in his dealings with the firm, Pier had been in a situation where he might have been tempted to behave as if he were practicing law, but properly declined.	lawyer’s employment of a paralegal acceptable. <i>See, however,</i> Bar Journal - June 1, 2002, Linda M. Racette, CLA, The State of Paralegal Regulation in NH: states South Dakota also has a provision prohibiting disbarred attorneys from practicing as paralegals. Provision not located.
Tennessee	Formal Ethics Opinion 83-F-50	“It is improper for an attorney to employ a suspended or disbarred attorney in a non-legal capacity.” Authority: ABA Informal Opinion 1434. Reliance also on ABA Informal Opinion 7: “An attorney should not employ a disbarred lawyer, even to do only office work and seeing no clients, because of the practical difficulty of confining his activities to an area which does not include practice of law, and because such employment would show disrespect to the courts (found at page 134 of the ABA Opinions on Professional Ethics, 1967 edition.)”	Note: ABA Informal Opinion 7 was stated for a disbarred lawyer , not a suspended lawyer. The TN Ethics Opinion dealt with a suspended lawyer. Note also: The TN Ethics Opinion is stated as a rule against a lawyer’s employment of a disciplined attorney, not as a rule applicable to the disciplined attorney. Finally: The TN Formal Ethics Opinion 83-F-50 does not address lawyers in a disability inactive status.
Texas	?	?	Rules 5.03 and 5.05 do not expressly address the employment of disciplined attorneys.
Utah	Supreme Court has not specifically addressed issue.	Employment is allowed but the landscape is uncertain; the question has been whether it is constitutional to restrict employment of former lawyer where employment is outside the practice of law. Any employment that could lead to UPL violations must be closely watched both for a lawyer seeking readmission and a lawyer hiring a disciplined lawyer. Supervision should be very close.	RPC Rules 5.3 and 5.5 do not expressly address the employment of disciplined attorneys.
Vermont	Vermont Bar Association Ethics Advisory Opinion 97-11 ADVISORY	An attorney who has received a disciplinary suspension imposed by the Supreme Court is subject to the continuing jurisdiction of the Professional Conduct Board and remains bound by the Code of Professional Responsibility and the Disciplinary Rules. A suspended attorney may be employed as a law clerk, paralegal, investigator or in any capacity as a lay person, by a licensed lawyer or law firm on an hourly or salaried basis, but may not share in legal fees. Such employment should be restricted to activities that are performed for the employing attorney, as opposed to direct services to clients; must be supervised by the employing attorney; and must not be activities that constitute the practice of law; nor should the	RPC Rules 5.3 and 5.5 do not expressly address the employment of disciplined attorneys Note that reference in Ethics Opinion is to “disciplinary suspension.”

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		<p>employment arrangement give the appearance to the public or to clients that the suspended attorney is permitted to practice law.</p> <p>The Committee on Professional Responsibility issues this Opinion after considerable discussion and debate, which reflected differences among the Committee members on the resolution of the questions presented. Moreover, neither the Disciplinary Rules, nor other rules, orders or decisions of the Vermont Supreme Court offer specific guidance on every issue. Therefore, we emphasize that this Opinion attempts to fill the gaps in the relevant authorities, offers useful guidelines to the members of the Bar and is purely advisory.</p>	
Virginia	RPC 5.5(c)	<p>Rule 5.5 Unauthorized Practice of Law</p> <p>(a) A lawyer shall not:</p> <p>(1) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or</p> <p>(2) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.</p> <p>(b) A lawyer, law firm or professional corporation shall not employ in any capacity a lawyer whose license has been suspended or revoked for professional misconduct, during such period of suspension or revocation, if the disciplined lawyer was associated with such lawyer, law firm or professional corporation at any time on or after the date of the acts which resulted in suspension or revocation.</p> <p>(c) A lawyer, law firm or professional corporation employing a lawyer as a consultant, law clerk or legal assistant when that lawyer’s license is suspended or revoked for professional misconduct shall not represent any client represented by the disciplined lawyer or by any lawyer with whom the disciplined lawyer practiced on or after the date of the acts which resulted in suspension or revocation.</p>	This rule reflects incorporation of prior DR 3-101(B)
Washington	Rules of Professional Conduct, Rule 5.8	<p>MISCONDUCT INVOLVING DISBARRED, SUSPENDED, RESIGNED, AND INACTIVE LAWYERS</p> <p>(a) A lawyer shall not engage in the practice of law while on inactive status, or while suspended from the practice of law for any cause.</p> <p>(b) A lawyer shall not engage in any of the following with an individual who is a disbarred or suspended lawyer or who has resigned in lieu of disbarment:</p> <p>(1) practice law with or in cooperation with such an individual;</p> <p>(2) maintain an office for the practice of law in a room or office occupied or used in whole or in part by such an individual;</p> <p>(3) permit such an individual to use the lawyer’s name for the practice of law;</p> <p>(4) practice law for or on behalf of such an individual; or</p> <p>(5) practice law under any arrangement or understanding for division of fees or compensation of any kind with such an individual.</p>	This principle was formerly stated in Section 5.5. It is now in a new section 5.8 of the RPC.
West Virginia	? West Virginia has	Monitoring of UPL may be avenue of regulation.	RPC Rules 5.3 and 5.5 do not expressly

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	been described informally as having no rule or prohibition.		address the employment of disciplined attorneys
Wisconsin	SCR 22.26(2) and SCR 22.27	<p>(2) An attorney whose license to practice law is suspended or revoked or who is suspended from the practice of law may not engage in this state in the practice of law or in any law work activity customarily done by law students, law clerks, or other paralegal personnel, except that the attorney may engage in law related work in this state for a commercial employer itself not engaged in the practice of law.</p> <p>SCR 22.27 Activities of other attorneys.</p> <p>(1) An attorney may not use in a firm name, letterhead or other written form the name of an attorney whose license is suspended or revoked.</p> <p>(2) An attorney may not authorize or knowingly permit an attorney whose license is suspended or revoked to do any of the following:</p> <p>(a) Interview clients or witnesses, except that in the course of employment by a commercial employer, the attorney may interview witnesses and participate in the investigation of claims.</p> <p>(b) Prepare cases for trial.</p> <p>(c) Do any legal research or other law work activity in a law office.</p> <p>(d) Write briefs or trial memoranda.</p> <p>(e) Perform any law related services for a member of the Wisconsin bar, either on a salary or a percentage or a fee-splitting basis, except that an attorney may share attorney fees on a quantum meruit basis only for services performed prior to suspension or revocation.</p> <p>(3) An attorney may not permit an attorney whose license is suspended or revoked or who is suspended from the practice of law to engage in any activity prohibited by SCR 22.26.</p> <p>(4) An attorney's failure to comply with this rule may constitute misconduct.</p>	<p>SCR 20:5.3 and SCR 20:5.5 do not expressly address employment of disciplined attorneys.</p> <p>Standards-Quality Subcommittee Meeting Minutes, May 27, 1997, notes that a disbarred attorney cannot practice as a paralegal.</p>
Wyoming	RPC 8.4(g)	(g) knowingly employ or continue to employ or contract with any person in the practice of law who has been disbarred or is under suspension from the practice of law by any jurisdiction, or is on disability inactive status by any jurisdiction. The prohibition of this rule extends to the employment of or contracting for the services of such disbarred or suspended person in any position or capacity (including but not limited to as an employee, independent contractor, paralegal, secretary, investigator or consultant) which is directly or indirectly related to the practice of law as defined by Rule 11(a) of the Rules of the Supreme Court of Wyoming Providing for the Organization and Government of the Bar Association and Attorneys at Law of the State of Wyoming, whether or not compensation is paid.	<p>RPC Rules 5.3 and 5.5 do not expressly address the employment of disciplined attorneys</p> <p>See 8.4(g)</p>

In compiling information for this Chart, the Working Group began with emails provided informally to the TBA Ethics Committee from various states and reviewed the underlying documents identified in those emails as well as additional documents from those states. We also looked at the materials available on the state court websites and/or the websites of the states’ administrative offices of the courts. Links available to state information at <http://www.abanet.org/cpr/links.html> were also helpful. Finding nothing elsewhere, we just “googled.” Because this Chart is

created from information found at these websites and not from a wide ranging search of the topic, there is no claim to completeness. It is as up-to-date as the websites are.