

**Rule 3-210 [1.2.1] Advising or Assisting the Violation of Law
(Commission's Proposed Rule Adopted on March 31 – April 1, 2016
– Clean Version)**

- (a) A lawyer shall not advise or knowingly assist a client in the violation of any law, rule, or ruling of a tribunal unless the lawyer believes in good faith that such law, rule, or ruling is invalid. A lawyer may take appropriate steps in good faith to test the validity of any law, rule, or ruling of a tribunal.
- (b) A lawyer shall not advise or knowingly assist a client in a fraudulent act.
- (c) A lawyer may discuss the legal consequences of any proposed course of conduct with a client.

Comment

[1] There is a critical distinction under this Rule between presenting an analysis of legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed with impunity. The fact that a client uses a lawyer's advice in a course of action that is criminal or fraudulent does not of itself make a lawyer a party to the course of action.

[2] Paragraphs (a) and (b) apply whether or not the client's conduct has already begun and is continuing. In complying with this Rule, a lawyer shall not violate the duty of confidentiality as provided in Rule 1.6 and Business and Professions Code § 6068(e)(1). In some cases, the lawyer's response is limited to the lawyer's right and, where appropriate, duty to resign or withdraw in accordance with Rules 1.13 and [1.16].

[3] Determining the validity, scope, meaning or application of a law, rule, or ruling of a tribunal in good faith may require a course of action involving disobedience of the law, rule, or ruling of a tribunal, or of the meaning placed upon it by governmental authorities.

[4] Paragraph ((c) authorizes a lawyer to advise a client on the consequences of violating a law, rule, or ruling of a tribunal that the client does not contend is unenforceable or unjust in itself, as a means of protesting a law or policy the client finds objectionable. For example, a lawyer may properly advise a client about the consequences of blocking the entrance to a public building as a means of protesting a law or policy the client believes to be unjust or invalid.

[5] If a lawyer comes to know or reasonably should know that a client expects assistance not permitted by these Rules or other law or if the lawyer intends to act contrary to the client's instructions, the lawyer must advise the client regarding the limitations on the lawyer's conduct. See Rule 1.4(a)(4).