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The Delaware Judiciary announces changes to attorney ethics rules to allow lawyers to provide modest financial aid to indigent clients

The Delaware Supreme Court today adopted a change to Rule 1.8 of the Delaware Lawyers' Rules of Professional Conduct that will allow attorneys to provide modest gifts to indigent clients for basic living expenses. In addition to facilitating humanitarian relief in other situations, this rule is expected to assist Delawareans facing imminent eviction by allowing pro bono attorneys to connect clients with financial resources to keep them in their homes as work on their cases continues.

“Recognizing the critical housing needs and other economic stressors on low-income Delawareans and the need to improve access to justice, the Delaware Supreme Court adopted this narrow amendment to its Rules of Professional Conduct to permit lawyers providing pro bono legal representation to low-income clients to contribute modest humanitarian aid without fear of a disciplinary prosecution under prior Rule 1.8(e),” said David A. White, Chief Disciplinary Counsel for the Delaware Supreme Court. “This amendment is important because it eliminates a risk of sanction that lawyers representing low-income Delawareans should not have to accept.”

The original rule, barring attorneys from providing financial support to clients, was adopted in 1983 to guard against lawyers' having too great a personal stake in litigation. The change leaves the bulk of this rule in place but carves out a narrow exception for attorneys providing free representation to indigent clients, allowing them to provide modest amounts of financial support for things like food, rent, transportation, medicine, and other basic living expenses. Lawyers may not publicize their willingness to provide such support or promise or discuss financial gifts before retention or as an inducement to continue with a legal action. Lawyers are also barred from seeking reimbursement for the gifts from the client or anyone affiliated with the client.

This change, approved by the entire Delaware Supreme Court and adopted by an order dated December 18, 2023, follows a change that the American Bar Association made to its Model Rules of Professional Conduct in 2020. Delaware joins a number of other states in making this adjustment to promote access to justice for the most vulnerable populations without compromising lawyer independence.

The changes to Rule 1.8 go into effect immediately. The full text of the rule change is available on the [Delaware Judiciary's website](#).