

## Procedure for Issuing Advisory Ethics Opinions

By the Arkansas Bar Association

Advisory opinions on professional ethics will be issued in writing by the Arkansas Bar Association Standing Committee on Professional Ethics and Grievances ( the "Committee" for and in the name of the Arkansas Bar Association (the "Association"). The opinion will be signed by a Reporter assigned by the Committee.

Opinions will be only be issued in response to written requests from licensed attorneys mailed to the Executive Director of the Arkansas Bar Association. All such opinions shall be in writing.

An Opinions Subcommittee (the "Subcommittee") of the Professional Ethics and Grievance Committee is established to render ethics opinions, and the members will be designated from to time to time by the chair of the Committee. Members of the Committee should continually assess their participation in the Committee's deliberations to recognize the existence of conflicting interests which might impugn the impartiality of the Committee.

One or more Reporters (probably law professors in the two Arkansas Campuses) for the Committee will be designated by the chair of the Committee. Reporters will be authorized to employ law students to assist in legal research if approved in advance by the chair of the Committee. Expenditures for legal research shall be paid from charges received by the Committee for opinions or from funds of the Committee authorized by the House of Delegates or from such other funds of the Committee authorized by the House of Delegates or from such other funds as may be given or granted to the Committee.

Opinions will be rendered only to licensed attorneys who are Association members. The following administrative charge therefore shall be paid in advance: \$50.00.

Requests for opinions shall relate to prospective conduct only and shall contain a complete statement of all facts upon which the opinion is requested, and a concise question of professional ethics. The identity of the individual, who is the subject of the request, shall be disclosed to the Committee. The requesting individual shall include with the request a concise memorandum setting forth his or her own research and conclusions concerning the questions and the statement that the matter is not the subject of pending disciplinary proceeding. Requests shall not be accepted or referred for opinion unless accompanied by this memorandum. .

Each opinion will be disseminated for publication in The Arkansas Lawyer and other media as directed by the Committee.

The procedure for issuing opinions should be as follows, if possible:

- a. The Executive Director of the Association will forward opinion requests to a Reporter immediately upon the receipt of the request.
- b. The Reporter will prepare a draft and forward the draft to the Opinions Subcommittee within ten days from the receipt thereof.
- c. Within seven days thereafter, the Subcommittee members will return the draft with an approval thereof, or comments thereon.
- d. Within seven days thereafter, the Reporter will issue the approved opinion. In the event the Subcommittee members do not agree on the opinion draft, then a Subcommittee meeting will be held or a second draft will be circulated and an opinion published as soon thereafter as possible.

- e. Subcommittee members may write minority opinions, however, a consensus opinion is preferable to one with majority and minority viewpoints as a more practical resolution of difficult issues about which honest persons may reasonably disagree.

Each opinion shall contain the following language:

"This is an opinion only of the Arkansas Bar Association which is a voluntary association of attorneys licensed to practice in the State of Arkansas, and reliance thereon is voluntary and relieves any Association member from liability for the content thereof. This opinion is intended to be the Association's best interpretation of the Model Rules of Professional Conduct as promulgated by the Supreme Court of Arkansas as that Code applies to the written facts presented to the Committee.

ARKANSAS BAR ASSOCIATION

By: \_\_\_\_\_

Reporter for Professional Ethics and Grievances Committee"

The Committee shall be limited to expressing its opinion on the prospective conduct of attorneys, and shall not issue opinions relating to the conduct of an individual other than the person requesting the opinion.

The Model Rules of Professional Conduct and Arkansas Code of Judicial Conduct in effect in the State of Arkansas contain the standards to be applied to professional conduct by the Committee.

The Committee shall not opine on a question that is pending before a Court or adjudicative body. The Committee should refrain from issuing opinions on questions of law.

Upon request from an officer of the Arkansas Bar Association or upon its own initiative, the Committee may examine subject matter of a general interest the Bar and may issue and advisory opinion or guideline.

The files of the Committee, or any part or copy of any file, or of any member of the Committee relating to its work, shall be treated as confidential and shall not be disclosed or made available in any way to any person other than members of the Committee.

Before any opinion is cleared for publication in The Arkansas Lawyer or any other publication, the opinion will be submitted by the Committee to the lawyer requesting the opinion. The Reporter will make every effort to remove any personal references from the opinion so that the opinion will not be identifiable with anyone attorney or anyone locality .

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