

State Bar of New Mexico Ethics Advisory Committee

Mission and Procedural Guidelines

The Ethics Advisory Committee of the State Bar of New Mexico is a volunteer committee composed of New Mexico lawyers who practice in a variety of areas and are located geographically throughout the state. The committee issues two types of advisory opinions. Informal opinions are issued in response to specific inquiries by attorneys admitted to practice in this state. Formal opinions are published for the membership as a whole, and provide general guidance which is more broadly relevant to more attorneys.

The Mission of the Ethics Advisory Committee is to inform and advise inquiring New Mexico lawyers on the committee's interpretation of the New Mexico Rules of Professional Conduct, (RPC), as applied to the Inquiring Lawyer's (IL) duties via a non-binding written informal opinion which represents the consensus of the committee members who considered the request.

The committee also assists and educates lawyers on issues of ethics and professional conduct by presenting thoughtful analysis through:

- The issuance of published formal opinions which are more broadly relevant to the State Bar as a whole;
- Informal advice or referral to the State Bar's Ethics Helpline;
- Continuing Legal Education classes on various ethics topics;
- Review and comments of proposed changes to the New Mexico Rules of Professional Conduct;
- A webpage of formal ethics opinions issued by the committee and other related ethics information; and,
- The monitoring of national trends in ethics and professionalism.

Ethics assistance from the committee is subject to the following **Procedural Guidelines**:

1. The opinions issued by the committee are advisory only and are not binding on any court, disciplinary board, tribunal, or other agency.
2. The informal opinion is a single opinion provided for the personal review and use of the IL and to assist that lawyer in determining their appropriate course of conduct. Informal opinions may be shared or used as educational tools by the committee, unless requested to be kept confidential by the IL.

3. The committee provides guidance concerning the IL's own conduct under the New Mexico RPC only, and does not answer questions about the conduct of other lawyers.
4. The IL must be admitted to practice law in the State of New Mexico or otherwise under the jurisdiction of our disciplinary authority.
5. The IL must submit his or her request to the committee in writing with sufficient contact information and facts for the committee to consider the request. The committee may, at its own discretion, request additional information from the IL or decline to address the issue.
6. The request to the committee is treated as confidential and the committee will exercise care in its response so as to preserve, as far as possible, the anonymity of the IL and all other persons referenced in the facts presented.
7. The committee will not act as a finder-of-fact, and will limit its opinion to the facts presented, which the committee will assume are stated as true.
8. The committee does not render opinions based on substantive law.
9. The committee does not accept anonymous inquiries.
10. The Committee will decline to provide opinions on matters that are presently before a tribunal or under administrative or disciplinary review.
11. The committee may, in its discretion, issue an opinion on its own initiative or upon the request of others, including a non-admitted attorney, legal professional organization, agency or court.
12. The committee cannot provide a specific deadline for issuing an informal opinion. If the matter is urgent, the IL should seek-out other resources listed below or retain ethics counsel.
13. Information obtained and retained by the committee will not be voluntarily disclosed without the consent of the IL unless otherwise required to do so by law.

Other Resources for Ethics Assistance

- State Bar of New Mexico Website – Formal Opinions
http://www.nmbar.org/Nmstatebar/For_Members/Ethics_Advisory_Opinions.aspx
 - The Formal Opinions listed are a historical index dating back to 1983. Some of the listed opinions may be outdated or no longer relevant due to changes in case law, statutes or court rules. Lawyers must thoroughly research all sources to determine the validity of any of the advice given in any formal advisory ethics opinion.

- Ethics Helpline / (800) 326-8155
 - Our Ethics Helpline is available for more immediate assistance. IL may call the helpline and at the recording leave contact information whereby an ethics attorney will call back, usually the same or next business day. These are non-NM attorneys for conflict and confidentiality reasons, but are versed in our Rules of Professional Conduct. The call is confidential and the State Bar pays the consultation fee.

- ABA Center for Professional Responsibility – Ethics Assistance
 - https://www.americanbar.org/groups/professional_responsibility.html