

Law Library Research Guide

*National Legal Ethics*¹

NATIONAL (ABA) STANDARDS OF PROFESSIONAL CONDUCT

In 1908, the American Bar Association (ABA) promulgated the *Canons of Professional Ethics*. The *Canons* were intended to guide attorneys in matters of ethical behavior.

The *Canons* were succeeded in 1969 by the *Model Code of Professional Responsibility*. The *Code* consists of canons, ethical considerations, and disciplinary rules. Unlike the canons and ethical considerations which are aspirational, the disciplinary rules are mandatory. The distinction can be stated plainly as the difference between what attorneys should do (aspirational), and what they must do (mandatory). The disciplinary rules state the “minimum level of conduct below which no lawyer can fall without being subject to disciplinary action.”

In 1983, the ABA adopted the *Model Rules of Professional Conduct* to replace the *Code*. The *Rules* set forth the duties of a lawyer. The comment to the *Rules* states that “[v]iolation of a *Rule* should not give rise to a cause of action nor should it create any presumption that a legal duty has been breached. The *Rules* are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies.” Because the ABA is a private organization, its ethics rules generally do not have the force of law and the *Model Code* has no legal effect unless **affirmatively adopted by the controlling jurisdiction**.

However, **many state bar associations and state courts have adopted the *Code* or *Rules*, and many federal district courts have adopted the *Code* as local rules of court**. Thus, the *Code* and *Rules* have considerable force; they may have the force of law, or courts can use them to guide their decisions.

Attorneys who violate the disciplinary rules are subject to discipline, which may consist of disbarment, suspension, or public or private reprimand. Discipline is not intended to punish attorneys, but to protect the public, the courts, and the legal profession.

Most states have adopted some version of the *Model Rules*, although a few states still use the *Code*. **California has adopted an entirely different set of**

¹ Much of the information contained in this Research Guide was found in the UCLA Law Library’s Research Guide Series, General Legal Topics Series, Guide G-5. We would like to thank the UCLA Law Library for their permission to use this resource.

rules. To learn which rules are followed by individual states, consult the *ABA/BNA Lawyers' Manual on Professional Conduct*, p. 01:3-01.4 and 01.11-01.49.

ABA ETHICS OPINIONS

Ethics Opinions are issued by the *ABA Standing Committee on Ethics and Professional Responsibility*. They construe the **Model Rules of Professional Responsibility** (prior to 1983, they construed the *Model Code*). They are not binding on any court or disciplinary body, but are considered highly persuasive authority.

Since 1922, the *ABA Committee on Professional Ethics* has issued formal and informal ethics opinions that interpret the **Canons of Professional and Judicial Ethics**, the **Model Code of Professional Responsibility**, and the **Model Rules of Professional Conduct**. **Formal Opinions** are interpretations of the *Rules* that the Committee believes to be of general interest. In **Informal Opinions**, the Committee addresses questions that are narrower in scope and arise less frequently.

I. ABA RULES AND ETHICS OPINIONS

- A. ***Model Code of Professional Responsibility, Model Rules of Professional Conduct, and Other Selected Standards including California Rules on Professional Responsibility.*** Compiled by Thomas D. Morgan and Ronald D. Rotunda. Title on spine: ***Selected Standards on Professional Responsibility.*** Contains the *ABA Model Rules* and *Model Code*, tables relating *Model Rules* sections to *Model Code* sections, ***California Rules of Professional Conduct, California Code of Judicial Conduct***, selected federal and California statutes, ***U.S. Supreme Court Rules, Aspirational Goals on Lawyer Advertising***, and many other rules and standards.

LOCATION:

Library: KF 305 A29 M63 (Loan Desk)

- B. ***ABA/BNA Lawyers' Manual on Professional Conduct.*** This manual is more current than other printed sources of ethics material. Published by the American Bar Association and the Bureau of National Affairs as a loose-leaf publication, it is updated monthly. It includes information on a wide range of ethics topics, including state variations on the *Model Rules* and *Model Code*, and a topical digest with references to case law, ethics opinions, and secondary material, with bibliographies at the end of each topic. See pages 01:3-01.4 & 01.11-01.49 for a listing of the rules followed by each state.

Separate ***Current Reports*** volumes from 1984 to the present features biweekly reports about court decisions and proceedings, ABA, state, and local ethics opinions, disciplinary proceedings, legislative action, bar association actions, and analyses. Includes annual indexes and tables of rules.

LOCATION:

Library: KF 305 A8 A21 (Loan Desk and BSR)

Online: <http://lawyersmanual.bna.com>

- C. ***ABA Compendium of Professional Responsibility Rules and Standards.*** This work “gathers together for immediate reference the essential legal ethics materials needed by lawyers and judges . . . law students . . . and legal scholars.” It includes the *Model Rules* and *Model Code*, other ABA rules and standards, relevant *Federal Rules of Civil and Appellate Procedure*, information on the ABA Standing Committee on Ethics and Professional Responsibility, select recent Formal Ethics Opinions, sample MPRE Questions and Answers, and the status of the adoption of the *Model Rules of Professional Conduct*.

LOCATION:

Library: KF 306 A733 (Loan Desk)

- D. ***Annotated Model Rules of Professional Conduct.*** American Bar Association. 5th ed. This work discusses the case law and other authorities pertaining to each rule. Each provision of the *Model Rules* is compared to the former *Model Code*, and tables provide cross-references to *Rule* and *Code* provisions. Includes a topical index.

LOCATION:

Library: KF 305 A2 2003 (Stacks—Level 1)

- E. ***The Law of Lawyering: A Handbook on the Model Rules of Professional Conduct,*** 3rd ed. Geoffrey C. Hazard, Jr. and W. William Hodes. This two-volume loose-leaf publication, organized by *Model Rule* number, is a thorough commentary on the *Model Rules*. Each rule is accompanied by an overview, comments, discussion of cases, and supplementary authorities. This work is kept up to date with regular supplements.

LOCATION:

Library: KF 306 H332 2001 (Stacks—Level 1)

- F. ***A Legislative History: The Development of the ABA Model***

Rules of Professional Conduct 1982-1998. “The second edition expands upon the first by tracing the evolution of the Model Rules of Professional Conduct during the ensuing fifteen years of deliberations before the ABA House of Delegates”—P.vii. Revised edition of *The Legislative History of the Model Rules of Professional Conduct* c. 1987 (below).

LOCATION:

Library: KF 306.Z9 L44 (Stacks—Level 1)

- G. ***The Legislative History of the Model Rules of Professional Conduct: Their Development in the ABA House of Delegates.***

LOCATION:

Library: KF 306 Z9 L44 (Stacks—Level 1)

- H. ***Annotated Code of Professional Responsibility.*** American Bar Foundation. This work provides extensive commentary on the *Code* provisions, including references to case law and secondary sources. It also contains background information about the drafting of the *Code*. Bibliographical references and an index are included.

LOCATION:

Library: KF 306.A47 (Loan Desk)

- I. ***Shepard’s Professional and Judicial Conduct Citations.*** Provides citations to the ABA formal and informal ethics opinions, the ***ABA Model Rules of Professional Conduct***, and the ***Model Code of Professional Responsibility***. Access: Use a professional conduct or disciplinary rule to locate cases, ethics opinions, law review articles, and ***ALR*** annotations from 1980 to 2002.

LOCATION:

Library: KF 308 A535 S44 (Stacks—Level 1)

- J. ***Digest of Bar Association Ethics Opinions.*** Olavi Maru, with the assistance of Roger L. Clough. This work digests formal and informal ethics opinions from the ABA, all state bar associations, and seven local bar associations, including San Francisco County. Original 1970 volume is kept up to date by five-year supplements. The volume and supplements contain opinions from the following years: ABA 1924-1979; CA State Bar 1966-1978; LA County Bar Association 1927-1979; San Diego County Bar Association 1968-1978; Bar Association of San Francisco 1970-1977. 1980 supplement includes cumulative subject index and table of modified and overruled opinions.

LOCATION:

Library: KF 305 A2 1970 (Loan Desk)

- K. ***Recent Ethics Opinions.*** Standing Committee on Ethics and Professional Responsibility, American Bar Association. Contains Informal Opinions: #316-current and Formal Opinions, #1285-1530 (1974-1989—the ABA Ethics committee has not published any Informal Opinions since 1989). This one volume loose-leaf publication contains a citator and an index.

LOCATION:

Library: KF305 A16 A55 (Stacks—Level 1)

- L. ***Formal and Informal Ethics Opinions, 1938-1998: Formal Opinions: 349-412, Informal Opinions: 1496-1530.*** Standing Committee on Ethics and Professional Responsibility, American Bar Association.

LOCATION:

Library: KF 305 A16 A54 2000 (Stacks—Level 1)

- M. ***Informal Ethics Opinions.*** ABA Committee on Ethics and Professional Responsibility. Volume 1: C230(s)-866, Volume 2: 867-1284. Contains a citator and index.

LOCATION:

Library: KF 305 A16 A54 1975 (Stacks—Level 1)

II. TREATISES AND JOURNALS — LEGAL ETHICS AND LEGAL MALPRACTICE

- A. ***Restatement (Third) of the Law Governing Lawyers.*** American Law Institute, 2000. As its title implies, this project seeks to restate the laws governing lawyers and the practice of law, not only as it is expressed in ethical rules but also in procedural and substantive law (e.g. evidentiary privileges, legal malpractice). Two volumes with indexes, supplemented annually.

LOCATION:

Library: KF 300 R469 2000 (Loan Desk)

Westlaw: REST-LGOVL database

LexisNexis: 2NDARY;LAWGV3 (case citations)

2NDARY;LAWGV2 (rules section)

(see note below regarding using

LexisNexis databases)

- B. ***Modern Legal Ethics***. Charles W. Wolfram. St. Paul, MN: West Publishing Co, 1986. A comprehensive hornbook that treats many issues of legal ethics. Student edition is 1114 pages; Practitioner's edition is 1363 pages. Both include indexes.

LOCATION:

Library: KF 306 W59 (Loan Desk—Practitioner's Edition)

KF 306 W591 (Loan Desk—Student Edition)

- C. ***Nutshells***

Professional Responsibility in a Nutshell. 2nd. ed. Robert H. Aronson & Donald T. Weckstein. St. Paul., MN: West Publishing Co., 1991. Includes table of cases, statutes, rules, and citations to secondary authorities.

LOCATION:

Library: KF 306 Z9 A76 1991 (Loan Desk)

Legal Ethics in a Nutshell. Ronald D. Rotunda & Michael I. Krauss. St. Paul., MN: West Publishing Co., 2003. Organized around the ABA *Model Rules of Professional Conduct*. Includes table of cases and index.

LOCATION:

Library: KF 306 Z9 R66 2003 (Loan Desk)

- D. ***Legal Malpractice***. 5th ed. Ronald E. Mallen and Jeffrey M. Smith. St. Paul, MN: West Group, 2000. This hornbook includes a bibliography, tables, and index and is supplemented by annual pocket parts. Tables include statutes and rules, decisions and law review articles by jurisdiction, and cases. Includes sample agreements and letters.

LOCATION:

Library: KF 313 M29 2000 (Loan Desk)

- E. ***Legal Ethics: The Lawyer's Deskbook on Professional Responsibility***. Ronald D. Rotunda. The Center for Professional Responsibility. The American Bar Association. St. Paul, MN: West Group, 2002. This deskbook includes multiple appendices, table of cases, table of codes, rules, and standards, and index. Library

only retains current edition.

LOCATION:

Library: KF 306 R68 (Loan Desk)

- F. ***The Georgetown Journal of Legal Ethics.*** A law review devoted solely to issues of professional ethics. First published in summer 1987; volume 5 (1991-92) contains a cumulative index to articles by title and author.

LOCATION:

Library: KF 305 A15 G46 (Stacks—Level 1)

Internet:

<http://www.law.georgetown.edu/journals/ethics/index.html> (Index only)

Westlaw: **GEOJLE** database (selected coverage from Vol. 1, No., 1, Fall 1987; full coverage begins in 1994)

Lexis: **LRALR; GJNLE** (Vol. IX, No. 2, Winter 1988—current)

III. **OTHER SOURCES OF INFORMATION ON LEGAL ETHICS**

- A. For other materials on legal ethics and the legal profession, check under these call number ranges:

ABA, National, and General works: KF 300-338 (Stacks—Level 1)

Law Student Ethics: KF 287.5 (Stacks—Level 1)

Judicial Ethics: KF 8779 (Stacks—Level 1); KFC 76.5 and KFC 980 (Stacks--Level 6)

- B. **Advice from ABA Center for Professional Responsibility for Attorneys:** “ETHICSearch is a fast and economical way to find the right resources to help resolve your ethics questions. Staffed by lawyers experienced in legal ethics research, you’ll receive citations to relevant ABA rules, opinions, and other ethics resources.”

Telephone: **800-285-2221**

Online: <http://www.abanet.org/cpr/ethicsearch/home.html>

Email: ethicsearch@staff.abanet.org

Address: ETHICSearch, ABA Center for Professional Responsibility, 321 N. Clark Street, Chicago, IL 60610

C. **LexisNexis: & Westlaw:**

Below is a partial listing of relevant sources on **LexisNexis** and **Westlaw**. Both services frequently add new databases, so consult their current directories for the latest information.

NOTE: When using LexisNexis, you can search for the appropriate database by using the database menus in that system or by using the “shortcut” database names provided below. To use these shortcuts, click on the “Command Searching” tab in LexisNexis, type the source names into the search box exactly as listed and then click the “Go” button. You can then search as you normally would.

LOCATION:

LexisNexis: **ETHICS; INFOP** or **ABA; INFOP** (for ABA Informal Ethics Opinions);
ETHICS; FOPIN or **ABA; FOPIN** (for ABA Formal Ethics Opinions);
ETHICS; CODES or **ABA; CODES** (for *Model Rules of Professional Conduct* and *Code of Judicial Conduct*);
ETHICS; ETHICS or **ABA; ETHICS** (combined database of **CODES + FOPIN + INFOP**)

Westlaw: **ABA-ETHOP** database (ABA ethics opinions from 1924 -present)
METH-EO database: Multistate Legal Ethics Opinions for all available states; or **XXETH-EO** databases: Individual states ethics opinions (e.g. **CAETH-EO**)
ABA-CJC database: *ABA Code of Judicial Conduct* (1990 version); **ABA-CJC-OLD** (1972 version)
JCR database: *Judicial Conduct Reporter* (Spr. 1979 - present)
ABA-MRPC database: *Model Rules of Prof. Conduct*
ABA-AMRPC database: *Annot. Model Rules of Prof. Conduct*

D. **INTERNET:**

The *Cornell Legal Information Institute* has a *Legal Ethics* page, which includes state rules or codes, ethics opinions, State American Legal Ethics Library Narratives at: <http://www.law.cornell.edu/ethics/index.html>

In addition, see *LegalEthics.Com* by Internet Legal Services, which

includes links to state ethics rules, regulations, and opinions, plus legally related Internet ethics resources at:
<http://www.legalethics.com/ethics.law>

You may also want to visit the ABA Home Page (<http://www.abanet.org>) for useful information on the ABA, its publications and services. The *Center for Professional Responsibility* page (<http://www.abanet.org/cpr/ethics.html>) lists all legal ethics publications of the ABA (e.g. *Model Rules* and *Codes* and *Ethics Opinions*) and their prices and provides an electronic order form.