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Chapter 1 : The Lawyer's Code of Professional Responsibility

â€¢2 An Ethics Guide for Part-Time Lawyer Judges â€¢ to give precedence to judicial duties over all other activities (Canon 3A); â€¢ to be faithful to the law and maintain.

It is no longer possible for us to maintain it at a level of completeness and accuracy given its staffing needs. It is very possible that we will revive it at a future time. At this point, it is in need of a complete technological renovation and reworking of the "correspondent firm" model which successfully sustained it for many years. Many people have contributed time and effort to the project over the years, and we would like to thank them. We are also grateful to Brad Wendel for his editorial contributions, to Brian Toohey and all at Jones Day for their efforts, and to all of our correspondents and contributors. We regret any inconvenience. Some portions of the collection may already be severely out of date, so please be cautious in your use of this material. California Legal Ethics 0. However, California had a forty-five-year body of case law based upon its own statutes and rules. Other significant changes became effective in Minor revisions or the creation of entirely new rules occur as part of an ongoing, evolving process. The provisions of the State Bar Act have been periodically amended or enacted by the legislature. In addition to these formal rules and codes, many local bars have adopted Codes of Civility to address concerns regarding the lack of professionalism. Rules and Regulations of the State Bar, which address issues involving membership, administration of meetings, the conference of delegates, and are designed to implement the State Bar Act. Rules Regulating the Admission to Practice of Law in California, involving the administrative process for admission. Minimum Continuing Legal Education Rules and Regulations, designed to administer the legal education requirements of California lawyers. Rules of Procedure for Fee Arbitrations and Enforcement of Fee Awards, which govern the procedures utilized in fee or cost arbitrations, and the enforcement of these awards. Minimum Standards for Lawyer Referral Services, which are the minimum guidelines for State Bar-approved lawyer referral services. Limited Liability Partnership Rules and Regulations governing the registration of limited liability law partnerships. California currently recognizes the following categories as certified legal specialists: Registered Foreign Legal Consultant Rules and Regulations authorizing lawyers from other countries to provide advice to California citizens regarding the law of their home country. Rules and Regulations of the California Legal Corps. The California Legal Corps is an organization of the bar which provides for preventative law, pro se clinics, community outreach programs, educational programs in schools, alternative dispute resolution programs, support for victims of disasters, and other programs designed to improve the access to justice of the poor or under represented. Rules and Procedures of the Commission on Judicial Nominees Evaluation, which govern the evaluations and procedures for candidates nominated by the Governor for judicial appointment. Policy Declarations of Commission on Judicial Performance, which are the procedures and guidelines for investigations of judicial officers. Rule of Court b provides that opinions of the Courts of Appeal may not be published in the Official Reports unless certain criteria are met. In addition, the California Supreme Court, under Rule c 2 , may order an opinion not to be published. Rule provides that, with certain narrow exceptions, an opinion of a Court of Appeal that is not certified for publication or that is ordered depublished shall not be cited or relied on by a court or a party in any other action or proceeding. Practitioners have speculated that the Supreme Court occasionally uses the depublication procedure as one alternative to granting review and rendering its own decision with regard to a lower court decision with which it may disagree. Even though unpublished opinions may be less authoritative than published opinions, they may still be instructive to counsel in analyzing issues and devising arguments. To borrow a familiar metaphor, this section is intended as a look at the forest; for a view of the trees, the reader is directed to the particular substantive sections of the library. Perhaps the most unusual aspect of California legal ethics is that "[m]ore than any other state, California governs the conduct of lawyers by statute. Statutes and Standards Little Brown Code govern the conduct of lawyers in California. The Legislature therefore plays a relatively active role in the regulation of California lawyers. To a greater extent than the MR, California ethics rules emphasize and require writings. Moreover, CRPC provides that a lawyer can undertake certain matters with the written consent of clients that

MR 1. The preamble to the MR explicitly 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. But courts occasionally hold that a breach of the CRPC may be taken as evidence of a breach of fiduciary obligation by the lawyer. California has no "whistle-blower" provision analogous to MR 8. Thus, in California, a lawyer is not required to report to the state bar suspected or known ethical breaches committed by another lawyer. CRPC provides that a lawyer may be subject to discipline for discrimination in the "management or operation of a law practice. A lawyer may not be disciplined under this provision unless he or she first has been found civilly liable for the alleged discrimination. There is no analogous provision in the MR. The judiciary has inherent and primary regulatory authority. State Bar Cal. Appeals Board 30 Cal. Legislative mandates or statutory expressions of regulation are contained in the State Bar Act. The State Bar Act, adopted in , contains detailed procedures and proceedings involving the disbarment of lawyers and the imposition of discipline for conduct involving the practice of law or otherwise criminal convictions, violations of court orders, acts involving moral turpitude, dishonest, corruption, etc. In re Accusation by Walker 32 Cal. The Supreme Court retains final and broad authority, and attorneys can be disciplined for conduct which occurred prior to their admission to practice, see In re Bogart 9 Cal. The imposition of discipline, extensively detailed in the State Bar Act, is not restricted to acts or conduct with a nexus to the practice of law, and can be imposed for activities outside of professional practice. California has two parallel codes of professional regulation: Often the legislature will proactively effectuate a statute to regulate specific conduct until a proposed Rule wends its way toward Supreme Court affirmation. If the process involving the creation of a new rule is too lengthy, then the Supreme Court may unilaterally enact a rule. Historically, discipline in the State of California had been handled by local grievance committees. These committees held hearings, screened applicants and provided recommendations to the Board of Governors, which then sent the recommendations to the Supreme Court. This member dissatisfaction resulted in the decision in Keller v. State Bar U. Significantly, in Keller, the U. Supreme Court concluded that the State Bar was more analogous to a labor union than to a governmental agency. Of the fifteen members on the Commission, the Bill required that a majority be public, or non-lawyer, members. The Bill also required establishment of a system using full-time appointed State Bar judges to fulfill the adjudicative function. This replaced the previous system of volunteer referee judges, who in many cases lacked sufficient formal training, experience, and knowledge of precedential cases. The Bill also authorized the appointment of a discipline monitor to reform the disciplinary system. Robert Fellmeth, the monitor, urged the adoption of over recommendations to change the existing system. Many of the recommendations involved increasing the ability of the system to address the backlog of client complaints, increasing detection procedures, and the creation of a full-time State Bar Court. Fellmeth issued annual reports between and During this period, substantial changes were enacted. Repeat offenders with numerous complaints and criminal convictions were systematically tracked. The prosecutors in the Office of Trials received substantial funding, which allowed them to become more vigorous and aggressive. In , the State Bar Court was created with six full-time hearing judges appointed by the Supreme Court, who conducted trial proceedings. The Review Department, also full-time, was composed of a presiding judge and two other judges including a non-lawyer. Another significant change was that review was no longer automatic and would occur only if requested. Review was based upon the record established at the hearing level. State Bar Court decisions were not automatically reviewed. In , the State Bar President sought and established an outside evaluation committee to determine if the large expenditure of funds on disciplinary functions was efficient. Although essentially approving of the management and operation of the Office of Trials, the Report resulted in substantial reductions in the State Bar Court, including a reduction in staff, the elimination of the use of pro-tem judges who handled certain assigned trials and settlement conferences, and a reduction in the number of hearing judges. Also in , the Commission on the Future of the Legal Profession and the State Bar recommended by a to-8 vote to maintain the mandatory bar, with other suggestions for reform from education of the profession and pro bono obligations, to mandatory malpractice insurance and reciprocity in terms of multi-jurisdictional practice. The auditors maintained that the State Bar failed to take advantage of opportunities to reduce the cost of membership dues and that the vast bulk of the budget was allocated to

disciplinary issues as opposed to the majority of other membership issues. Senator Kopp encouraged the aggressive recoupment of disciplinary costs from disciplined attorneys; in addition he pointed out that many members were paying for services which they never utilized, such as the State Bar Daily a new clipping service , the Ethics Hotline, public education programs, and the fee arbitration program. For a detailed discussion of these and other events between and , see W. Two thirds of the members voting in the plebiscite voted to retain the existing system. A significantly greater number of lawyers chose either not to vote at all or to vote against retention of the existing system. Analysts maintain that the absence of an alternative was the primary flaw in the anti-mandatory-bar position. In late , a number of circumstances converged to once again bring the issue of appropriate State Bar activities to the forefront. Although a two-year fee bill was approved by the legislature, Governor Wilson vetoed the bill after the legislature had recessed for the year. The legislature maintains a firm grip upon the State Bar through the budgetary process. Funding for the State Bar is generated by the annual fees imposed upon all California lawyers. In particular, the Governor charged that the Bar was involved in publishing, real property investment, social criticism and legislative activity. He asserted that the State Bar was bloated, arrogant, oblivious and unresponsive. Eventually, the Supreme Court asserted its inherent authority over the profession by levying a change on attorneys to fund the discipline system. In re Attorney Discipline System 19 Cal. Shortly thereafter, the election of Governor Davis cleared the impasse between the political branches, and a new statute permitting the Bar to collect dues was passed. In , it received constitutional status by virtue of a constitutional amendment Cal. The State Bar is statutorily regulated by the State Bar Act, which controls the activities of the organization and members, and functions of the bar. The constitutionality of the State Bar Act has been sustained after a number of attacks. The State Bar of California is a mandatory bar, requiring that all persons admitted and licensed to practice law be members, except justices and judges of courts of record. A judge of a court of record, during his tenure in office, is not within the jurisdiction of the State Bar.

Chapter 2 : Ethics Opinions | Tennessee Administrative Office of the Courts

Note: Citations are based on reference standards. However, formatting rules can vary widely between applications and fields of interest or study. The specific requirements or preferences of your reviewing publisher, classroom teacher, institution or organization should be applied.

A lawyer shall be responsible for a violation of the Disciplinary Rules by another lawyer or for conduct of a non-lawyer employed or retained by or associated with the lawyer that would be a violation of the Disciplinary Rules if engaged in by a lawyer if: The lawyer orders, or directs the specific conduct, or, with knowledge of the specific conduct, ratifies it; or 2. The lawyer is a partner in the law firm in which the other lawyer practices or the non-lawyer is employed, or has supervisory authority over the other lawyer or the non-lawyer, and knows of such conduct, or in the exercise of reasonable management or supervisory authority should have known of the conduct so that reasonable remedial action could be or could have been taken at a time when its consequences could be or could have been avoided or mitigated. A lawyer shall comply with these Disciplinary Rules notwithstanding that the lawyer acted at the direction of another person. A lawyer may be subject to the disciplinary authority of both this state and another jurisdiction where the lawyer is admitted for the same conduct. In any exercise of the disciplinary authority of this state , the rules of professional conduct to be applied shall be as follows: For conduct in connection with a proceeding in a court before which a lawyer has been admitted to practice either generally or for purposes of that proceeding , the rules to be applied shall be the rules of the jurisdiction in which the court sits, unless the rules of the court provide otherwise; and 2. For any other conduct: If the lawyer is licensed to practice only in this state , the rules to be applied shall be the rules of this state, and b. If the lawyer is licensed to practice in this state and another jurisdiction, the rules to be applied shall be the rules of the admitting jurisdiction in which the lawyer principally practices; provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the lawyer is licensed to practice, the rules of that jurisdiction shall be applied to that conduct. With respect to lawyers or law firms providing non-legal services to clients or other persons: A lawyer or law firm that provides non-legal services to a person that are not distinct from legal services being provided to that person by the lawyer or law firm is subject to these Disciplinary Rules with respect to the provision of both legal and non-legal services. A lawyer or law firm that provides non-legal services to a person that are distinct from legal services being provided to that person by the lawyer or law firm is subject to these Disciplinary Rules with respect to the non-legal services if the person receiving the services could reasonably believe that the non-legal services are the subject of an attorney-client relationship. A lawyer or law firm that is an owner, controlling party or agent of, or that is otherwise affiliated with, an entity that the lawyer or law firm knows to be providing non-legal services to a person is subject to these Disciplinary Rules with respect to the non-legal services if the person receiving the services could reasonably believe that the non-legal services are the subject of an attorney-client relationship. For purposes of DR [Notwithstanding the provisions of DR [The practice of law has an essential tradition of complete independence and uncompromised loyalty to those it serves. Indeed, these guarantees represent the very foundation of the profession and allow and foster its continued role as a protector of the system of law. Therefore, a lawyer must remain completely responsible for his or her own independent professional judgment, maintain the confidences and secrets of clients, preserve funds of clients and third parties in his or her control, and otherwise comply with the legal and ethical principles governing lawyers in New York State. Multi-disciplinary practice between lawyers and non-lawyers is incompatible with the core values of the legal profession and, therefore, a strict division between services provided by lawyers and those provided by non-lawyers is essential to protect those values. However, a lawyer or law firm may enter into and maintain a contractual relationship with a non-legal professional or non-legal professional service firm for the purpose of offering to the public, on a systematic and continuing basis, legal services performed by the lawyer or law firm, as well as other non-legal professional services, notwithstanding the provisions of DR [The profession of the non-legal professional or non-legal professional service firm is included in a list jointly established and

maintained by the Appellate Divisions pursuant to section The lawyer or law firm neither grants to the non-legal professional or non-legal professional service firm, nor permits such person or firm to obtain, hold or exercise, directly or indirectly, any ownership or investment interest in, or managerial or supervisory right, power or position in connection with the practice of law by the lawyer or law firm nor, as provided in DR [Each profession on the list maintained pursuant to a joint rule of the Appellate Divisions shall have been designated sua sponte, or approved by the Appellate Divisions upon application of a member of a non-legal profession or non-legal professional service firm, upon a determination that the profession is composed of individuals who, with respect to their profession: Notwithstanding DR [Hence, important functions of the legal profession are to educate people to recognize their problems, to facilitate the process of intelligent selection of lawyers, and to assist in making legal services fully available. Recognition of Legal Problems EC The legal professional should help the public to recognize legal problems because such problems may not be self-revealing and often are not timely noticed. Therefore, lawyers should encourage and participate in educational and public relations programs concerning our legal system with particular reference to legal problems that frequently arise. EC Whether a lawyer acts properly in volunteering in-person advice to a non-lawyer to seek legal services depends upon the circumstances. The giving of advice that one should take legal action could well be in fulfillment of the duty of the legal profession to assist the public in recognizing legal problems. EC Repealed EC A lawyer who writes or speaks for the purpose of educating members of the public to recognize their legal problems should carefully refrain from giving or appearing to give a general solution applicable to all apparently similar individual problems since slight changes in fact situations may require a material variance in the applicable advice; otherwise, the public may be misled and misadvised. Talks and writings by lawyers for non-lawyers should caution them not to attempt to solve individual problems upon the basis of the information contained therein. Selection of a Lawyer EC Formerly a potential client usually knew the reputations of local lawyers for competency and integrity and therefore could select a practitioner in whom he or she had confidence. This traditional selection process worked well because it was initiated by the client and the choice was an informed one. EC Changed conditions, however, have seriously restricted the effectiveness of the traditional selection process. Often the reputations of lawyers are not sufficiently known to enable potential users of legal services to make intelligent choices. The law has become increasingly complex and specialized. Few lawyers are willing and competent to deal with every kind of legal matter, and many people have difficulty in determining the competence of lawyers to render different types of legal services. The selection of legal counsel is particularly difficult for transients, persons moving into new areas, persons of limited education or means, and others who have little or no contact with lawyers. Lack of information about the availability of lawyers, the qualifications of particular lawyers, the areas of law in which lawyers accept representation and the cost of legal services impedes the intelligent selection of lawyers. EC Selection of a lawyer should be made on an informed basis. Disclosure of truthful and relevant information about lawyers and their areas of practice should assist in the making of an informed selection. Disinterested and informed advice and recommendation of third parties--relatives, friends, acquaintances, business associates, or other lawyers--may also be helpful. Lawyer Advertising EC The attorney client relationship is personal and unique and should not be established as a result of pressures and deceptions. A lawyer should strive to communicate such information without undue emphasis upon style and advertising stratagems which serve to hinder rather than to facilitate intelligent selection of counsel. Although communications involving puffery and claims that cannot be measured or verified are not specifically referred to in DR , such communications would be prohibited to the extent that they are false, deceptive or misleading. A lawyer who advertises in a state other than New York should comply with the advertising rules or regulations applicable to lawyers in that state. EC The name under which a lawyer practices may be a factor in the selection process. The use of a trade name or an assumed name could mislead non-lawyers concerning the identity, responsibility, and status of those practicing thereunder. For many years some law firms have used a firm name retaining one or more names of deceased or retired partners and such practice is not improper if the firm is a bona fide successor of a firm in which the deceased or retired person was a member, if the use of the name is authorized by law or by contract, and if the public is not misled thereby. However, the name of a partner

who withdraws from a firm but continues to practice law should be omitted from the firm name in order to avoid misleading the public. EC A lawyer occupying a judicial, legislative, or public executive or administrative position who has the right to practice law concurrently may allow his or her name to remain in the name of the firm if the lawyer actively continues to practice law as a member thereof. EC In order to avoid the possibility of misleading persons with whom a lawyer deals, a lawyer should be scrupulous in the representation of professional status. A lawyer should not hold himself or herself out as being a partner or associate of a law firm if not one in fact, and thus should not hold himself or herself out as being a partner or associate if the lawyer only shares offices with another lawyer. EC The following, if used in public communications or communications to a prospective client, are likely to be false, deceptive or misleading: EC The legal profession has developed lawyer referral systems designed to aid individuals who are able to pay fees but need assistance in locating lawyers competent to handle their particular problems. Use of a lawyer referral system enables an individual to avoid an uninformed selection of a lawyer because such a system makes possible the employment of competent lawyers who have indicated an interest in the subject matter involved. Lawyers should support the principle of lawyer referral systems and should encourage the evolution of other ethical plans which aid in the selection of qualified counsel. EC Persons unable to pay all or a portion of a reasonable fee should be able to obtain necessary legal services, and lawyers should support and participate in appropriate activities designed to achieve that objective. Financial Ability to Employ Counsel: Persons Able to Pay Reasonable Fees EC The determination of a proper fee requires consideration of the interests of both client and lawyer. A lawyer should not charge more than a reasonable fee, for excessive cost of legal service would deter non-lawyers from using the legal system to protect their rights and to minimize and resolve disputes. Furthermore, an excessive charge abuses the professional relationship between lawyer and client. EC The determination of the reasonableness of a fee requires consideration of all relevant circumstances, including those stated in the Disciplinary Rules. EC As soon as feasible after a lawyer has been employed, it is desirable that a clear agreement be reached with the client as to the basis of the fee charges to be made. Such a course will not only prevent later misunderstanding but will also work for good relations between the lawyer and the client. It is usually beneficial to reduce to writing the understanding of the parties regarding the fee, particularly when it is contingent. A lawyer should be mindful that many persons who desire to employ a lawyer may have had little or no experience with fee charges of lawyers, and for this reason lawyers should explain fully to such persons the reasons for the particular fee arrangement proposed. EC Contingent fee arrangements in civil cases have long been commonly accepted in the United States in proceedings to enforce claims. The historical bases of their acceptance are that 1 they often, and in a variety of circumstances, provide the only practical means by which one having a claim against another can economically afford, finance, and obtain the services of a competent lawyer to prosecute a claim, and 2 a successful prosecution of the claim produces a fund out of which the fee can be paid. Although a lawyer generally should decline to accept employment on a contingent fee basis by one who is able to pay a reasonable fixed fee, it is not necessarily improper for a lawyer, where justified by the particular circumstances of a case, to enter into a contingent fee contract in a civil case with any client who, after being fully informed of all relevant factors, desires that arrangement. Because of the human relationships involved and the unique character of the proceedings, contingent fee arrangements in domestic relations matters are rarely justified. In administrative agency proceedings, contingent fee contracts should be governed by the same considerations as in other civil cases. Public policy properly condemns contingent fee arrangements in criminal cases, largely on the ground that legal services in criminal cases do not produce a fund out of which the fee can be paid. A fee may properly be divided between lawyers properly associated if the division is in proportion to the services performed by each lawyer or, by a writing given to the client, each lawyer assumes joint responsibility for the representation and if the total fee is reasonable. EC A lawyer should be zealous in efforts to avoid controversies over fees with clients and should attempt to resolve amicably any differences on the subject. A lawyer should not sue a client for a fee unless necessary to prevent fraud or gross imposition by the client. Persons Unable to Pay Reasonable Fees EC A person whose financial ability is not sufficient to permit payment of any fee cannot obtain legal services, other than in cases where a contingent fee is

appropriate, unless the services are otherwise provided. Even a person of means may be unable to pay a reasonable fee, which is large because of the complexity, novelty, or difficulty of the problem or similar factors. EC A lawyer has an obligation to render public interest and pro bono legal service. Each lawyer should aspire to provide at least 20 hours of pro bono services annually by providing legal services at no fee and without expectation of fee to: Each lawyer also should provide financial support for such organizations to assist in providing legal services to persons of limited financial means. In addition to meeting the aspirational goals set forth above, a lawyer also should render public interest and pro bono legal service: Acceptance and Retention of Employment EC A lawyer is under no obligation to act as advisor or advocate for every person who may wish to become a client; but in furtherance of the objective of the bar to make legal services fully available, a lawyer should not lightly decline proffered employment. The fulfillment of this objective requires acceptance by a lawyer of a fair share of tendered employment which may be unattractive both to the lawyer and the bar generally. EC History is replete with instances of distinguished sacrificial services by lawyers who have represented unpopular clients and causes. Regardless of personal feelings, a lawyer should not decline representation because a client or a cause is unpopular or community reaction is adverse. EC The personal preference of a lawyer to avoid adversary alignment against judges, other lawyers, public officials or influential members of the community does not justify rejection of tendered employment. EC When a lawyer is appointed by a court or requested by a bar association to undertake representation of a person unable to obtain counsel, whether for financial or other reasons, the lawyer should not seek to be excused from undertaking the representation except for compelling reasons. Compelling reasons do not include such factors as the repugnance of the subject matter of the proceeding, the identity or position of a person involved in the case, the belief of the lawyer that the defendant in a criminal proceeding is guilty, or the belief of the lawyer regarding the merits of the civil case. EC Employment should not be accepted by a lawyer who is unable to render competent service or who knows or it is obvious that the person seeking to employ the lawyer desires to institute or maintain an action merely for the purpose of harassing or maliciously injuring another. Likewise, a lawyer should decline employment if the intensity of personal feelings, as distinguished from a community attitude, may impair effective representation of a prospective client. If a lawyer knows that a client has previously obtained counsel, the lawyer should not accept employment in the matter unless the other counsel approves or withdraws, or the client terminates the prior employment. EC Full availability of legal counsel requires both that persons be able to obtain counsel and that lawyers who undertake representation complete the work involved. Trial counsel for a convicted defendant should continue to represent the client by advising whether to take an appeal and, if the appeal is prosecuted, by representing the client through the appeal unless new counsel is substituted or withdrawal is permitted by the appropriate court. EC A decision by a lawyer to withdraw should be made only on the basis of compelling circumstances and, in a matter pending before a tribunal , the lawyer must comply with the rules of the tribunal regarding withdrawal. A lawyer should not withdraw without considering carefully and endeavoring to minimize the possible adverse effect on the rights of the client and the possibility of prejudice to the client as a result of the withdrawal. Even when withdrawal is justifiable, a lawyer should protect the welfare of the client by giving due notice of the withdrawal, suggesting employment of other counsel, delivering to the client all papers and property to which the client is entitled, cooperating with counsel subsequently employed, and otherwise endeavoring to minimize the possibility of harm. Further, the lawyer should refund to the client any compensation not earned during the employment.

Chapter 3 : Can Judges Tweet? Judicial Ethics in the Social Media Age | Boston Bar Journal

supported by a national membership of judges, lawyers, and other members of the public. Through research, educational programs, and publications, AJS addresses concerns related to ethics in the courts, judicial selection, the jury, court administration, judicial independence, and public understanding of the justice system.

Foster Voice of the Judiciary The rise of social media has created questions for judges that would not have occurred to anyone ten or fifteen years ago. May a judge have a Facebook page? Must judges delete their Linked-In accounts after being appointed to the bench? Is it possible to use a Twitter account consistent with the Code of Judicial Conduct? These three questions are a modern twist on the dilemma judges have always faced: The answer to these questions starts with the Code, most recently revised effective January 1, In , the CJE issued letter opinions answering these three questions yes, no, and yes, but only under certain conditions that ensure that the judge acts online consistently with the Code. For the few people left who are unfamiliar with it, Facebook is an online social media platform. Participants create a page about themselves on which they can post news and personal information. In the letter opinion, the CJE set forth some of the provisions of the Code that use of Facebook implicates. These include Rule 1. All these are swept up in Rule 3. The letter opinion addresses how a current judge uses Twitter. It begins by reiterating the Code provisions implicated by the use of social media that the CJE discussed in its Facebook opinion. It repeats that judges are not barred from using social media, so long as that use is consistent with the Code. It goes on to note, however, that use of Twitter raises some particular issues. The letter opinion also reminds judges that these considerations also apply to retweets, and to the list of other Twitter accounts that a judge follows, as all of these are public. As the CJE recognizes, it does no good for a judge to withdraw completely from society. Judges must maintain contact with the world that they are asked to judge; they must have some understanding of the social circumstances of the people who appear before them. Thus, judges are entitled to have friends, to have conversations at parties, to attend public and social events. The caveat is that they must do so within the confines and requirements of the Code and in a way that does not call into question their fairness and impartiality or that of the judiciary. Social media in their various forms are an amplification of the direct social contacts and interactions of a judge. Social media make it possible for a judge to interact with friends over a far wider range than in person. The big difference is that these interactions are far more public than a conversation at a dinner party. The simple rule for judges who use social media is to keep this in mind and not to say anything on Facebook or Twitter that they could or would not say in any other public setting.

Chapter 4 : Ethics Laws - Ethics

Public Private login. e.g. test cricket, Perth (WA), "Parkes, Henry" Separate different tags with a comma. To include a comma in your tag, surround the tag with double quotes.

Download PDF version of guide for print I. Introduction Researching issues in professional responsibility is a complex process and requires use of materials beyond judicial decisions and statutes. At the core of issues of legal ethics are the rules governing the conduct of lawyers and judges that are adopted by each state. In addition, each state bar association has some mechanism for enforcing the rules through disciplinary proceedings and through the issuance of opinion letters on ethical issues submitted to it. You may need to consult bar association ethics opinions, the Model Rules, and the version of the rules of professional conduct for your particular state. Case law research can also be complicated because ethics issues can arise from attorney discipline proceedings and such diverse substantive areas as legal malpractice and criminal appeals. This research guide concentrates on materials other than case law, although a few tips on finding judicial decisions in the area of legal ethics are included. Getting Started If you need some basic background on professional responsibility or an overview of key issues, start with the texts Legal Ethics in a Nutshell 4th ed. Z9 R , Mastering Professional Responsibility 2d ed. G , or The Law of Lawyering 4th ed. Codes of Professional Responsibility for Lawyers The American Bar Association has provided leadership in legal ethics through the adoption of professional standards that serve as models of the law governing lawyers since the adoption of the Canons of Professional Ethics in The latest version of these standards is the Model Rules of Professional Conduct, first adopted in and amended a number of times since then. The Model Rules of Professional Conduct consist of a Preamble, a statement of their scope, and a list of approximately 60 rules, organized into eight subject areas. Each Rule is followed by a comment explaining the Rule. The Model Code of Professional Responsibility is divided into three types of provisions: The Canons are general statements, defined as "axiomatic norms. Ethical Considerations EC contain objectives towards which lawyers should strive. The text of the current and historical versions of the Model Code and Rules with comments can be found in many places, including most of the resources listed at the end of this guide. A few convenient sources are: Also included are lists detailing state adoption of the Rules and links to state ethics rules and opinions. Includes comparisons between the Rules and the Code, narrative on the legal background of each rule, discussion of related legal issues, and citations to supporting cases and opinions. Model Rules and Standards. The Model Code and Model Rules are not binding on anyone, but serve as a model for adoption by states. Their interpretation in case law and ethics opinions also serves as guidance, since the state rules are based on these models. The others use a version of the Model Code. California is the only state that has never adopted either model and has its own rules of professional responsibility. Many of its provisions are, of course, similar to the model acts. The states can modify the model rules when adopted or at any later time. Codes or rules of professional conduct for lawyers and judges function much like statutes. However, most are not adopted by the legislature, but instead by state bar associations or the highest court of the jurisdiction. Sources for State and Other Ethics Codes American Bar Association Center for Professional Responsibility links to state codes, codes of other countries and those of other legal entities. These books are found at the end of the code for each state Level 3 , and may also be found in the online catalog with a subject heading search for court rules â€" [state]. For state rules on Westlaw: Ethics rules are included in the database for court rules, and can be reached quickly from the main search box with the database identifier: Lexis Advance and Bloomberg Law also includes ethics rules within the Court Rules database for a particular state. Interpreting the Rules A good way to begin interpreting ethics rules is to consult the Annotated Model Rules of Professional Conduct, 8th ed. ABA-AMRPC , which includes comparison between the Model Rules and the Code, a narrative on the legal background of each rule and paragraphs on each rule and sub-rule, describing the legal issues and giving citations to supporting cases and ethics opinions. Its stated intent is to "lead researchers to a better understanding of the Model Rules Some states also offer annotated versions of their ethics rules. Search the online catalog for the subject heading court rules â€" [state] to locate available annotated titles. These opinions

are written in response to requests for advice from lawyers who want to know whether a past or contemplated future action violates an ethical code. There are usually both formal and informal opinions. Formal opinions are those the ABA deems relevant to a large number of attorneys and tend to contain more in-depth discussion, while informal opinions are given in cases where the ABA does not believe there will be as much general interest. These opinions are recommendations to the attorney and are not enforceable. They may be cited in another case as persuasive authority to show how the ABA or the state bar has interpreted the Code or Rules. Formal opinions began in and informal opinions began publication in The Ethics Opinions section has recent ABA opinions in full, plus a digest of recent state bar ethics opinions. The current volumes of this set include sections analyzing the law in a wide array of subject areas. In addition to the online services listed above, full texts of ABA ethics opinions appear in a series of volumes published by the ABA. Informal opinions were published only in summary form prior to A19 O6 includes Formal Opinions Informal Ethics Opinions KF A2 is a two-volume set which includes all known Informal Opinions from A2 continues the prior volumes, compiling both types of opinions into a single publication. Recent opinions are available for free on the ABA Center for Professional Responsibility website, but archived opinions are available only to members or for a fee at this location. For the full text of state bar association ethics opinions, a comprehensive historical compilation is the National Reporter on Legal Ethics and Professional Responsibility, which is available in paper KF Although this is the one set that collects the full text of all this material, it is not always complete and it is fairly cumbersome to use. You may find it easier to use another source to locate opinions and use this just for the full text of the opinions. Many state ethics opinions are published in state bar journals. Disciplinary Proceedings Lawyers can, of course, be disciplined for a breach of state ethics rules in the state where they are licensed. Each state has its own disciplinary procedure for violations of its rules, but generally there is an initial, informal process to determine whether the charge or complaint filed requires a full administrative hearing. To search for attorney discipline records and any available opinions from state bars, begin at the ABA Directory of Lawyer Disciplinary Agencies last updated Oct. Most state bars provide public access to attorney disciplinary records as part of a member directory search. Case Law In determining issues of legal ethics, court opinions carry more weight than the bar association ethics opinions described above. The context of case law involving legal ethics issues can be diverse, including appeals of disciplinary proceedings, legal malpractice, sanctions under FRCP 11, 26 and 37 and their state counterparts, and criminal appeals where ineffective assistance of counsel is alleged. Fortunately, they are easier to find using standard research tools, such as case law databases in Bloomberg Law , Lexis Advance , Westlaw , or Fastcase. A S46, updated through You can also use digests in print or online to find ethics cases. When using the digest, try the key numbers under the topic Attorney and Client. In other online services, a search of case law for a particular jurisdiction will retrieve case results dealing with legal ethics topics. Judicial Ethics Judges are bound by the general rules of professional conduct for all lawyers, but special rules of professional conduct for judges also exist. It consists of a Preamble, Terminology section, and 4 Canons with comments. The text of the model code is usually included in most sources that have the Model Rules and Code for lawyers. The current Model Code is available online , along with comparisons to prior editions. An annotated version of the most recent judicial code is also available KF Like the rules for lawyers, each state adopts its own rules for judicial conduct, and most are based on this ABA model. State judicial conduct codes are generally reproduced as part of state court rules publications and databases see section IV. Periodicals Law reviews and articles on legal ethics topics can be found in the standard sources for legal literature, such as law review databases in Lexis Advance and Westlaw , LegalTrac , and Index to Legal Periodicals and Books. Some journals, such as Georgetown Journal of Legal Ethics and Journal of the Legal Profession, are focused exclusively on professional responsibility topics. General Research Resources To access legal ethics resources electronically, follow these research trails: Type Ethics into the search bar to see available databases Lexis Advance: Generally these materials can be found in the KF area of the library collection, but can be searched in the catalog under the subject headings: American Bar Association, Legal Ethics: The Restatement is much broader in scope than the ABA rules and includes many areas of law affecting legal practice such as civil liability, evidence and agency. G , or Geoffrey C. William Hodes, The Law of Lawyering 4th ed.

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1 See, e.g., Judicial Ethics Committee Opini on, (part-time General Sessions judge may maintain law practice in other courts involving civil and criminal litigation as long as the integrity and the.

Here, in Part 2, I have selected a handful of judicial ethics issues that lawyers may or may not commonly encounter in their interactions with the judiciary: Reporting Obligations Most attorneys are aware that they have a duty, under certain circumstances, to report colleagues in the profession who engage in professional misconduct or otherwise demonstrate reasons to question their honesty, trustworthiness, or fitness as lawyers. Skala, 80 NY2d This duty to report is not optional. Although noting that the Rules contain no corresponding provision for misconduct by non-lawyers, the ACJE has concluded that a judge may choose to report any misconduct of parties or witnesses uncovered during a judicial proceeding. Recusal Obligations One of the most common, but perhaps least understood, judicial ethics issues that lawyers encounter is the need for a judge to recuse from hearing a specific case. Instead, it may be easiest to focus on and provide here the ground rules for recusal: Under certain circumstances specified under the Rules and the Judiciary Law, judges must exercise recusal. In such situations, even the parties cannot stipulate to permit the judge to hear the case. Parties may, under certain circumstances, agree to allow the judge to nonetheless hear the case â€" a process known as remittal of disqualification. The agreement shall be incorporated in the record of the proceeding. See also NY Jud. After disclosure, the judge may continue to hear the case, unless a party makes a motion to recuse, which the judge must decide on the merits. Moreno, 70 NY2d Judicial candidates may engage only in very limited political activity during their campaigns for office. Judicial candidates may not, for example, personally solicit or accept campaign contributions. Does this mean that lawyers cannot support judicial candidates? They can, but doing so can raise ethics issues during and after the campaign season. Except for the rare campaign that is entirely self-financed, judicial candidates must use a campaign committee to raise the money necessary to conduct a campaign for office while insulating themselves from the solicitation of these funds to the greatest extent possible. They may ask people, including attorneys who appear or have appeared in their courts, to serve on a campaign committee. But attorneys should be aware: Lawyers may wish to state publicly that they support a particular judicial candidate. In sharing a couple of common examples below, I hope it will be clearer why judges must often decline opportunities, even if they could otherwise make meaningful and worthwhile contributions to causes. Judges, like most attorneys, typically attend law school reunions every five or ten years. Understandably, they frequently are sought after as guests of honor, speakers, planning committee members, or even fund-raising chairs. Often, they must decline some or all of these requests because of their ethical obligations. A judge may not, however, participate in any fund-raising activity. This means that the judge may not write or speak concerning a case that is pending or impending in any court in the United States or its territories including on appeal or in a collateral proceeding. Conclusion As one often hears at Judicial Ethics training programs, no one knows every ethics rule. Even if someone did, he or she would not be able to predict infallibly how the ACJE might opine on issues not covered in the Rules or in prior advisory opinions. He would like to thank his colleagues Maryrita Dobiel and Rebecca Adams for their insight and suggestions that immeasurably improved this article. The views expressed in this article are those of the author only and are not those of the Office of Court Administration or Unified Court System. This article provides general coverage of its subject area and is presented to the reader for informational purposes only with the understanding that the laws governing legal ethics and professional responsibility are always changing. The information in this article is not a substitute for legal advice and may not be suitable in a particular situation. Consult your attorney for legal advice.

Chapter 6 : TJB | Publications & Training | Judicial Ethics & Bench Books

Guide to Judiciary Policy Vol. 2: Ethics and Judicial Conduct Conflict-of-Interest Rules for Part-Time Magistrate Judges of Law Partner of Judge's Relative.

Chapter 7 : Judicial Ethics in New York State â€" Part 2 | New York Legal Ethics Reporter | New York Lega

Outside Earned Income, Honoraria, and Employment (Guide to Judiciary Policy, Vol. 2, Pt. C, Ch. 10) Financial Disclosure Judicial officers and certain judicial employees are required to file financial disclosure reports by the Ethics in Government Act of , as amended.

Chapter 8 : California Legal Ethics

23 Lawyers Serving as Judges, Prosecutors, and Defense Lawyers at the Same Time: Legal Ethics and Municipal Courts Peter A. Joy "We conclude there is an obvious appearance of.*

Chapter 9 : Ethics Policies | United States Courts

(), a Guide to Judicial Conduct published for the Council of Chief Justices of Australia () and a Code of Conduct for Judicial Officers of the Federal Republic of Nigeria. ving posed the question whether judicial ethics exist as such, Mr Justice Thomas stated: Ha.