

Chapter 1 : Ethics: Declaratory Rulings - Summaries

Declaratory Rulings - Summaries. Declaratory Rulings are formal opinions, interpreting the Codes of Ethics, that are issued by the Citizen's Ethics Advisory Board upon the request of any person who is not subject to the Codes of Ethics.

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 " [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 " [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.

Chapter 2 : Summaries of ethics rulings :: AICPA historical collection

Content and media associated with Summary of Ethics Rules.

He must, however, abide by strict guidelines detailed in the ruling regarding the types of issues that may arise under the Ethics Code. The General Assembly has, by its actions, determined that any such potential conflict of interest is outweighed by the benefit of utilizing the experience and expertise of special interest groups. The Commission concluded the purchase price was within its apparent value range and the mortgage rate was not commercially unreasonable. Accordingly, it was not a gift. The High Sheriff is neither a member of the classified service nor an employee of the Judicial Branch. The spouse employed at the University of Connecticut may not take any official action which would result in a direct and specific financial gain or loss to her husband, as opposed to his employer e. Accepting employment as a bounty hunter would impermissibly impair the independence of judgment of these Department of Corrections employees in violation of subsection c. It is impossible for a deputy sheriff to shed the trappings of office or mantle of authority at will. This subsection only restricts the activities of the legislator. It does not dictate which clients the law firm may represent Employees or members of the law firm may review and research the public files or various listed agencies, as long as they do not reveal to the officials or employees of the agency the specific purpose of the research or the identity of their client. Appearing before any of the listed agencies in a contested or regulatory matter for a client or on a compensated basis is prohibited by the subsection. If a client is sued by the Office of the Attorney General on behalf of a subsection d agency, the Attorney General is merely representing that state agency. Therefore, any dealings with his Office, including an attempt to negotiate or settle a case, would be tantamount to impermissible direct contact with the client agency. On the other hand, if litigation has progressed to a point which necessitates appearing in court, both parties are now before a neutral party. Negotiations between the parties in the course of the litigation would still be considered an appearance before the listed agencies. For example, a former state employee should not specifically publicize his or her new role by sending announcements to his or her former agency. For example, a former state employee may phone the agency and request a set of the latest regulations or a list of all agency opinions which address a certain regulation or statute. He or she may not, however, ask someone at the agency to interpret how particular statute or regulation would apply in a specific situation. Malcolm Cochran, Applicant Mr. Cochran is a state employee. Cochran may not use his official position or any confidential information received through holding it, to obtain financial gain for RADAR. If, under subsection a , he will be required to take an action that would affect a financial interest of a business with which he is associated, the Mr. Cochran must prepare a written statement signed under penalty of false statement describing the matter requiring action and the nature of the potential conflict and deliver a copy of the statement to his or her immediate supervisor. To avoid any potential conflicts, Mr. Glass should refer all written reports concerning RADAR which he receives from his staff to his supervisor and not participate in executive staff meetings which pertain to these matters. Gordon Lagrow, Applicant Mr. The Commission declined to issue an opinion on the merits because the issue had been definitively settled by a change in circumstances when Representative Schiessl withdrew as counsel. The request for a declaratory ruling was moot. The other members of the Board are not bound by the Code of Ethics. Monroe, Applicant A legislator who holds a committee chairmanship may not appear for compensation before a commission or agency over which he or she exercises significant official authority. Prohibiting attorneys who are committee members from appearing before the courts of the State would, in many cases, not just restrict their outside employment; it would virtually eliminate it. The Commission limited its ruling to advising against any attorney member of the General Assembly from taking part in the reappointment process of a judge before whom the legislator has pending case. The possibility of an inadvertent use of official position in violation of subsection c would be too great. The state employee may not accept contributions from those employed or supervised by him nor should the state employee accept contributions from any individual or business contracting with, or seeking to contract with his agency. No person who is permitted to contribute should do so on behalf of an individual or business that is barred from contributing. Additionally, the state

representative may not accept any gifts from lobbyists or representatives of lobbyists. The state representative may never use his official stationery or other indicia of public office to solicit contributions for his personal legal defense fund. The restriction applies because the restriction is on the office which will be held and not on how an individual obtains that office. Therefore, a state trooper may not be appointed to an elective municipal office. To the extent that dicta in Advisory Opinion No. The state employee must resign either his position as Director of Land Acquisition and Property Management for the Department of Environmental Protection or First Selectmen of the municipality. The Probate Courts are not a listed agency under this subsection. As a member of the Judiciary Committee, a legislator would have particular authority over the Probate Courts. However, this authority is focused mainly on substantive aspects of the law in this area and not on control of those who preside over and staff the Probate Courts. Court appointments are exempt from the open and public process requirement imposed by i. Therefore, if a legislator receives such appointments, it must be under circumstances which assure the public that improper influence is not involved. Any such deviation from the norm which resulted in financial benefit to the legislator would create the appearance that the official had violated the Code by using his public position to obtain financial gain prohibited by c. The legislator may not take legislative action regarding the Probate Courts if the financial benefit at issue could be expected to accrue to the legislator to a greater extent than other members of his profession or occupation as prohibited by c and Any activity which reveals the identity of the former state employee amounts to prohibited representation. Beck, Applicant The spouse of the Chief Interpreter, Judicial Department, is the president and sole shareholder of a corporation formed to provide interpreting and translating services in any language for legal and non-legal civil, commercial, and personal matters. The corporation, its officers, and its employees will not provide any services to, or be involved with, any branch of state government. It will not have access to, or in any way utilize, any information not available to the general public. It would, however, be a violation of the use of office subsection c , if the Chief Interpreter were to allow a court interpreter to work for the corporation during hours when the court interpreter should be carrying out state duties. It would also be a violation for the Chief Interpreter to state that the court interpreter was not available when one in fact was, to generate business for the corporation. Were the Chief Interpreter to learn, in the course of her duties, that a person needed interpreting services which the state would not provide, she should not refer the person to the corporation. Anthony Pagano, Applicant The spouse of the Chief Interpreter, Judicial Department, is the president and sole shareholder of a corporation formed to provide interpreting and translating services in any language for legal and non-legal civil, commercial, and personal matters. The corporation wishes to solicit interpreting and translating business, on a non-contract basis, from State executive and legislative branch agencies. In addition to the restrictions detailed in Declaratory Ruling No. While there may be no general contract, between the State and the corporation, it does not seem possible for there to be no agreement at all between the State and the corporation if services are supplied. Perhaps agreements will be made on a case-by-case basis. His main duty in the Office of the Attorney General is to handle matters for certain institutions of higher education: A classified State employee elected to a municipal office in a partisan political election must also ensure that there are no conflicts of interests as defined in section a None should prevent the assistant attorney general from serving as mayor if elected. A member of the Dental Commission may not serve as a consultant investigating matters which may later be acted on by the Commission in disciplinary proceedings without violating subsection b. Furthermore, the procedures under which the consulting contract is reached must satisfy the requirements of subsection i. The specific staff members under consideration are the Executive Director, his principal assistant, and three real estate examiners. Since that time there has been a substantial change in the duties of the staff of the Real Estate Commission. The now have no part whatsoever in the process of examining applicants for real estate licenses. They are removed from the qualification and monitoring of schools teaching real estate courses, and the qualification and monitoring of the courses and those who teach them. The professor may, for compensation, conduct tests and other research, prepare reports, and even assist in drafting the application required by an agency listed in subsection d. Because hearing officers are appointed by the Governor to exercise the power of the state, they are public officials for purposes of the Code of Ethics for Public Officials. The public official may lobby so

DOWNLOAD PDF SUMMARIES OF ETHICS RULINGS.

long as he does not lobby in the area of his public responsibility. The restrictions on public officials appearing before agencies listing in subsection d exempts public officials who receive only a per diem, reimbursement or expenses, or both. When individuals such as the hearing officers receive a fixed dollar amount per day, this qualifies for the per diem exception under d. Because the consultant is not in the classified services, subsection a b , which in some circumstances precludes a classified State employee from holding elective municipal office, is not directly applicable. Whether it provides any guidance in the case at hand must be determined by another agency, for the Commission is not empowered to interpret this subsection. The Commission has held that state employees must avoid the appearance, as well as the actuality, of a conflict of interest. Here the appearance of a conflict of interest is overwhelming, whether or not an actual conflict exists. If such representation were allowed, the potential for independence of judgment being impaired by the prospect of profitable future employment and the potential for improper use of office would shake the public confidence in the administration of the State agency. Staff members would be suspected of having taken employment which impairs their independence of judgment. There is a possibility, albeit perhaps unwittingly, for personal gain. There is the appearance, at least, of a substantial conflict of interest. For the same reason, holding both offices does not appear to foster potential conflicts of interest. Simultaneously holding of two positions also should be reviewed under the common law doctrine of incompatibility of public office. However, as a member of the General Assembly, he would be prohibited on voting to compensate Metropolitan District Commissioners because it would result in financial impact upon him as a commissioner.

Chapter 3 : Ethics & Independence

To link to the entire object, paste this link in email, IM or document. To embed the entire object, paste this HTML in website. To link to this page, paste this link in email, IM or document.

Chapter 4 : State Ethics Commission Rulings | calendrierdelascience.com

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.

Chapter 5 : Legal Ethics | Duke University School of Law

Note! Citation formats are based on standards as of July Citations contain only title, author, edition, publisher, and year published. Citations should be used as a guideline and should be double checked for accuracy.

Chapter 6 : Louisiana Ethics Administration Program

Opinion Number. Issue. Opinion Summary. Code Section. Appearance of impropriety. The Code of Ethics seeks to protect the integrity of city government by prohibiting city officials and employees from engaging in conflicts of interest.

Chapter 7 : Ethics: Public Information

This handout contains a summary of ethics rules based on Federal conflict of interest statutes, regulations set forth in the Standards of Ethical Conduct for Employees of the Executive Branch, and other ethics laws and Department of Commerce policies.

Chapter 8 : Case Study Collection | Ethics Education Library

Cases from the Center for Ethics in the Professions at the University of Puerto Rico International Relations The

DOWNLOAD PDF SUMMARIES OF ETHICS RULINGS.

Carnegie Council offers this series of 22 case studies for use in college and university classrooms.

Chapter 9 : Ethics Laws - Ethics

Summaries Indexed by Topic Indexed by Year Declaratory Rulings Declaratory Rulings are formal opinions, interpreting the Codes of Ethics, that are issued by the Citizen's Ethics Advisory Board upon the request of any person who is not subject to the Codes of Ethics.