

27 NCAC 01D .0103 ETHICS ADVISORIES

(a) The executive director, assistant executive director, or designated staff counsel may honor or deny a request for an informal ethics advisory. Except as provided in Rule .0102(b), an attorney requesting an opinion concerning another attorney's professional conduct, past conduct, or matters of first impression shall be asked to submit a written inquiry for referral to the committee. An attorney requesting an opinion involving matters of widespread interest to the Bar or particularly complex factual circumstances may also be asked to submit a written inquiry for referral to the committee.

(b) The Bar's program for providing informal ethics advisories to inquiring attorneys is a designated lawyer's assistance program approved by the Bar and information received by the executive director, assistant executive director, or designated staff counsel from an attorney seeking an informal ethics advisory shall be confidential information pursuant to Rule 1.6(c) of the Revised Rules of Professional Conduct (2003); provided, however, such confidential information may be disclosed as allowed by Rule 1.6(b) and as necessary to respond to a false or misleading statement made about an informal ethics advisory. Further, if an attorney's response to a grievance proceeding relies in whole or in part upon the receipt of an informal ethics advisory, confidential information may be disclosed to Bar counsel, the Grievance Committee or other appropriate disciplinary authority.

(c) An ethics advisory issued by the executive director or assistant executive director shall be promulgated under the authority of the committee and in accordance with such guidelines as the committee may establish and prescribe from time to time.

(d) An ethics advisory shall sanction or disapprove only the matter in issue, not otherwise serve as precedent and not be published.

(e) Ethics advisories shall be reviewed periodically by the committee. If, upon review, a majority of the committee present and voting decides that an ethics advisory should be withdrawn, the requesting attorney shall be notified in writing of the committee's decision by the executive director or assistant executive director. Until such notification, the attorney shall be deemed to have acted ethically and in good faith if he or she acts pursuant to the ethics advisory which is later withdrawn or modified.

(f) If an inquiring attorney disagrees with the ethics advisory issued to him or her, the attorney may request reconsideration of the ethics advisory by writing to the committee prior to the next regularly scheduled meeting of the committee.

*History Note: Authority G.S. 84-23;
Readopted Eff. December 8, 1994;
Amended Eff. February 5, 2004; March 5, 1998.*