

Self-Assessment Test

April 2008

New York Professional Responsibility Report

Receive one-half hour of CLE credit in Ethics and Professionalism by reading the April 2008 issue of NYPRR and answering the following questions. The answers are contained within the newsletter. Return this form, together with your payment of \$15 by check or money order. For both true-false questions and multiple-choice questions, mark the correct box with an "x". You must score 80 (16 out of 20 correct) to receive a certificate.

For purpose of the first 10 questions, the term "DRs" refers to Rules under the existing Code of Professional Responsibility, and the term "Rules" to the rules proposed by COSAC (the proposed "New York Rules of Professional Conduct.")

1. The Rules make clear that a lawyer has "implied authority" to disclose a confidence when:
 - the lawyer concludes that a significant public interest is involved
 - directed by a court
 - the client's interests would be advanced and the client has not expressly instructed the lawyer not to disclose.
2. The Rules:
 - redefine both confidences and secrets as "confidential information"
 - preserve the distinction between confidences and secrets
 - allow the client to designate which confidences are also "secrets."
3. The Rules generally permit a lawyer to disclose information:
 - obtained from an employee concerning the business of the employer
 - gained through the lawyer's own research or knowledge
 - any confidence not specifically described as a secret by the client.
4. The exceptions to the Rules against disclosure of confidences:
 - prevent a lawyer from "using" a confidence under any circumstance
 - distinguish between "revealing" a confidence and "using" a confidence
 - treat the terms "revealing" and "using" in the same way.
5. The Rules permit a lawyer to reveal a client's confidence:
 - when necessary to prevent death or substantial bodily harm
 - in connection with a proceeding by the SEC
 - in response to a subpoena by a Congressional committee.
6. The Rules permit a lawyer to reveal a client's confidence:
 - to prevent the client from committing a felony
 - to prevent the client from committing a crime
 - to prevent a client accused of a crime from leaving the state.
7. A lawyer may reveal a client's confidence to defend the lawyer's reputation:
 - only when the client has made a formal complaint to a disciplinary committee
 - only in a proceeding brought by the client or one that the lawyer reasonably believes the client will bring
 - whenever the client disagrees with the lawyer's recommendations.
8. One change to the DRs recommended by the Rules is:
 - to extend the rules against disclosure of confidences to former clients
 - to limit the rules against disclosure of confidences to current clients
 - to extend the rules against disclosure only to clients who have ceased to be clients within the past two years.
9. Unless a lawyer concludes that revelation is not necessary in the best interest of the organization, a lawyer has a duty under the Rules to report the wrongdoing of an officer of the organization:
 - to higher authority in the organization
 - directly to the CEO of the organization
 - to the members of the organization's Board of Directors
10. The Rules make clear that a lawyer:
 - may not report the past false testimony of a client if the lawyer's knowledge was acquired through a confidence
 - has an obligation to disclose to the tribunal all false testimony of a client – whether past or present.
 - must report the false testimony of a client only when the testimony suggests the past commission of an undisclosed crime.

11. Judges in New York are generally:

- appointed by the governor
- elected by their constituents
- selected by majority vote of the State Senate.

12. Candidates for judicial office may engage in campaign activities:

- at all times before the election
- only during a "window period" extending from party endorsement to six months following the end of a candidacy
- for a period fixed from time to time by the Judicial Campaign Ethics Center.

13. A judicial candidate must delegate all fund raising activities to:

- a campaign treasurer appointed by the candidate
- the political party which endorses his candidacy
- a committee of responsible persons selected by him.

14. The campaign ethics training program for judicial candidates:

- may be completed at any time prior to the election
- must be completed within 30 days following the date of nomination
- is required only of candidates to Supreme Court judge-ships.

15. A judicial candidate is prohibited from making:

- a contribution to a political party in excess of \$1,000
- a contribution to his campaign committee exceeding \$2,500
- any contribution, direct or indirect, to a political party or candidate.

16. Beginning in 2008, all judicial candidates except for Town or Village Courts:

- must submit their credentials for office to an Independent Judicial Election Qualification Commission ("IJEQC")
- must receive an unqualified and positive evaluation by the local IJEQC
- will be evaluated by an IJEQC.

17. A judicial candidate must file a financial disclosure statement if:

- she has been endorsed by a political party
- she has announced her candidacy to the public
- she is a candidate for appointment to the Court of Appeals.

18. A judicial candidate is prohibited from:

- any discussion of public issues
- making a promise inconsistent with impartial performance of his duties
- attending a politically sponsored dinner.

19. On her website, a judicial candidate may not:

- link to the website of a partisan political organization
- discuss her qualifications for office
- display her photo

20. In its website, the campaign committee of a judicial candidate may solicit campaign funds only if contributors:

- are directed to send their contributions to the candidate
- limit their contributors to a maximum of \$150
- are directed to send their contributions to the committee.

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