Professional Responsibility Research Guide
Lee Peoples © 2005
Associate Director for Faculty, Research and Instructional Services
Oklahoma City University Law Library
lpeoples@okcu.edu

This guide lists resources and strategies for researching professional responsibility issues. It covers the multitude of sources involved in this type of research including: ethical rules and opinions promulgated by the American Bar Association (ABA) and state and local bar associations; rules related to specific practice areas including government attorneys; cases interpreting ethical rules; secondary sources including treatises, looseleafs and periodicals; internet resources; and, a section on Oklahoma professional responsibility research. The researcher should be aware that this research guide does not address the related field of legal malpractice.

ABA Model Code and Rules
The ABA released the Cannons of Professional Ethics in 1908 based on the Alabama Bar Association’s Code of Ethics. The Cannons were replaced by the Model Code of Professional Responsibility in 1969. The Model Code is divided into cannons, disciplinary rules, ethical considerations and definitions. The Model Code was replaced in 1983 by the Model Rules of Professional Conduct. The Model Rules consist of 52 rules divided into eight subject areas with comments for each rule.

Sources of the Model Rules
Annotated Model Rules of Professional Conduct, 5th Ed. (ABA: Chicago, 2003) OCU Call # KF 305.A5 (Reserve). This single volume paper back provides the text of the Model Rules and comments along with extensive citations to cases, ethics opinions and secondary sources (articles and books) discussing each rule. Correlation tables showing cross-references to related provisions between the Model Rules and Model Code and vice-versa are provided in the appendix.

Model Rules of Professional Conduct (Chicago: ABA, 2004) OCU Call # KF 305.A5 (Reserve). This annual paper back volume contains the most recent Model Rules and comments. A correlation table to the Model Code is provided in the appendix.

The Model Rules are also found in all three compendium volumes and in the Lawyer’s Manual and The Law of Lawyering treatises, all described in more detail below.

Lexis/Nexis (ETHICS; CODES).

Westlaw (ABA-MRPC, unannotated; ABA-AMRPC, annotated).

ABA Center for Professional Responsibility provides access to the Model Rules at:
http://www.abanet.org/cpr/mrpc/mrpc_home.html

This guide is part of the OCU Law Library series of Research Guides and Pathfinders.
Additional copies and future updated versions are available at:
http://www.okcu.edu/law/lawlib/library_researchguides.html
Cornell’s Legal Information Institute “Legal Ethics” website includes the text of the Model Rules, comparison to the text of state codes of professional responsibility and narrative descriptions of the professional responsibility codes from eighteen states, accessible at: http://www.law.cornell.edu/ethics/

*A Legislative History of the Development of the ABA Model Rules of Professional Conduct, 1982-1998* (Chicago: ABA, 1999) OCU Call # KF 306.L45 (Reserve). This work traces the development of the Model Rules through the ABA House of Delegates. It includes several appendices listing: amendments by rule, amendments chronologically and chronology of the Model Rules.

Cite to the Model Rules according to *Bluebook* rule 12.8.6:

**MODEL RULES OF PROF’L CONDUCT R. 3.12 (year).**

**Sources of the Model Code**


The Model Code is also found in all three compendium volumes and in the *Lawyer’s Manual* treatise, all described in more detail below.

Lexis/Nexis (ETHICS; CODES).

Cornell’s Legal Information Institute provides the text of the Model Code, accessible at: http://www2.law.cornell.edu/cgi-bin/folio/cgi.exe/Mdlcpr

Cite to the Model Code according to *Bluebook* rule 12.8.6:

**MODEL CODE OF PROF’L RESPONSIBILITY Cannon 2 (1980).**

**MODEL CODE OF PROF’L RESPONSIBILITY EC 7-36 (1980).**

**MODEL CODE OF PROF’L RESPONSIBILITY DR 8-101 (1980).**

**Sources of Cannons of Professional Ethics**


**Judicial Ethics**

The ABA’s Model Code of Judicial Conduct contains a preamble, terminology section, five cannons and comments. It was adopted in 1972 and revised in 1997. The Model Code of Judicial Conduct is found in all three compendium volumes and in the *Lawyer’s Manual* treatise, all described in more detail below. Also available from the Westlaw database (ABA-CJC).
Federal Court Ethical Rules
Federal courts adopt their own rules regarding attorney conduct and discipline. Many adopt and apply the state rules in force in their jurisdiction. Consult the rules of the particular court for more information.

Rules of the Supreme Court and Federal Courts of Appeals are found in Title 28 of the United States Code. Also available from Cornell’s Legal Information Institute, accessible at: http://www.law.cornell.edu


*Rules of the Supreme Court of the United States*, available from the Court’s website: http://www.supremecourtus.gov/crules/crules.html

The United States Administrative Office of the Courts provides links to the websites of individual Courts where the text of local court rules may often be found: http://www.uscourts.gov/links.html

Lexis provides access to rules in the library (Federal Legal; Court Rules) for the latest holdings.

Westlaw provides access by clicking on the tab “Court Rules and Orders.”

**Standards for Specialized Areas of Practice**

American Arbitration Association Ethical Standards:
http://www.adr.org/index2_1.jsp?JSPssid=15718

The American College of Trial Lawyers provides access to its Codes of Pretrial and Trial Conduct from its website, accessible at: http://www.actl.com/publications/index.htm

**Government Attorneys**
Government lawyers are subject to statutes, regulations and codes of ethics. Since they are government actors they are also subject to state and federal constitutional limitations. Some government agencies have adopted their own codes of conduct for their lawyers. Some of the codes and standards regulating their behavior include:


U.S. Patent and Trademark Office Summary of Ethical Rules:

United States Office of Government Ethics provides access to laws and regulations that regulate government employees including lawyers, accessible at:
http://www.usoge.gov/home.html

Westlaw contains several databases useful for searching for statutes, rules and regulations governing federal government lawyers. The databases are titled Federal Legal Ethics and Professional Responsibility and include: U.S. Code (FETH-USCA); Code of Federal Regulations (FETH-CFR); Federal Register (FETH-FR); and, U.S. Office of Government Ethics Opinions (FETH-OGE).

Aspirational Standards for Professionalism
These include creeds of professionalism and are found in the ABA Compendium, Dzienkowski compendium and the Lawyer's Manual, all discussed below.

Standards for the Organized Regulation of Lawyers (Model Rules)
These include ABA Standards for Imposing Lawyer Sanctions and Model Rules on the following subjects: Mediation of Client-Lawyer Disputes, Fee Arbitration, Pro Hac Vice Admission, Admission by Motion, Licensing of Legal Consultants and Temporary Practice by Foreign Lawyers. They are available in the ABA Compendium, Dzienkowski compendium and the Lawyer's Manual, all discussed below.

Restatement of the Law Governing Lawyers
Part of the series of restatements published by the American Law Institute this work was published in 2000 after almost fifteen years in the making. Previous drafts are available in paperback form.

Restatement of the Law Third: The Law Governing Lawyers (St. Paul: American Law Institute, 2000) OCU Call # KF 395.A2 (Reference). Contains comments, illustrations and reporters notes. Previous drafts are also available at this call number.

The text of the restatement is also available in the Dzienkowski and Gillers compendiums.

Westlaw provides access to the text of the restatement (REST-LGOVL) and an archive of tentative and proposed final drafts (REST-LGOVLAR)
Cite to the Restatement according to Bluebook rule 12.8.5:

RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § ___ (year).

Compendiums, Compilations, Standards and Other Codes


Updating

Shepard’s Professional and Judicial Conduct Citations (Colorado Springs: Shepard’s, 1991) OCU Call # KF 308.A535. This print source is the only citator devoted the Model Rules and Model Code of Judicial Conduct, the electronic version and KeyCite do not contain citations to these enactments. Individual state ethical codes can be Shepardized.

State Codes

The enactment of ethical codes of conduct for lawyers is generally left up to state and local bar associations. Forty five states and territories currently base their ethical codes on the Model Rules. Resources for locating state ethical codes include:

National Reporter on Legal Ethics and Professional Responsibility, Jacobstein, Myron J., Roy M. Mersky and Norman Quist (Fredrick, M.D.: University Publications of America, 1982 – present) OCU Call # KF 308.A6 (Reference). This publication reprints codes of professional responsibility for each state along with selected ethics opinions. In comparison with the ABA/BNA looseleaf this set provides more of the legislative history of each state’s ethical code. Also available from the Lexis/Nexis library (ETHOP).

Westlaw provides access to state ethical codes. Enter the postal abbreviation for each state (XX-RULES).

Lexis/Nexis provides access to state ethical codes. Enter the postal abbreviation for each state (XXETH).

The American Legal Ethics library at Cornell’s Legal Information Institute provides access to the online versions of state ethical codes. Narrative comments are included describing the codes of eighteen states. Users may also click listing by topic and view a comparative listing of which eighteen jurisdictions have adopted the Model Rules or the Model Code. The website is accessible at, http://www.law.cornell.edu/ethics/
The ABA's Center for Professional Responsibility provides links to state ethical codes at: http://www.abanet.org/cpr/links.html

State Adoption Resources
The American Legal Ethics library at Cornell's Legal Information Institute provides access to the online versions of state ethical codes. Listing by topic displays which eighteen jurisdictions have adopted the Model Rules or the Model Code for each Model Rule. The website is accessible at, http://www.law.cornell.edu/ethics/

The ABA's Center for Professional Responsibility lists states that have adopted the Model Rules alphabetically and chronologically at: http://www.abanet.org/cpr/mrpe/mrpe_home.html

Opinions
Formal and informal ethical opinions are issued by the ABA Committee on Ethics and Professional Responsibility. Opinions are written in response to requests from lawyers who want to know if conduct violates ethical rules. Formal opinions are meant to address a wide audience of attorneys while informal opinions are usually specific to a unique factual situation. If formal and informal opinions conflict the formal opinion prevails. Formal and informal opinions are not mandatory authority but they may be persuasive to show how the ABA has interpreted the Mode Rules. Sources of opinions include:


Westlaw provides access to the complete run of formal opinions (ABA-ETHOP) and informal opinions from July 1961 (ABA-ETHOP).

Lexis/Nexis provides access to the complete run of formal opinions (ABA;FOPIN) and informal opinions from 1960 (ABA;INFOP).
The ABA provides access to headnotes of formal opinions from 1996 – present at: http://www.abanet.org/cpr/ethicopinions.html

Cite to opinions according to Bluebook rule 12.8.6:
ABA Comm. on Prof’l Ethics, Informal Op. ___ (year).
For opinions from 1919-1958.

Searching for Opinions
ABA/BNA Lawyer’s Manual of Professional Conduct (Washington D.C.: BNA, 1980) OCU Call # KF 305.A8 (Reserve). This looseleaf provides subject access to ABA formal and informal ethics opinions from 1980 - present. Ethics opinions are reported in separate binders, each containing their own subject index.


Search for opinions using the Lexis/Nexis and Westlaw databases listed above.

State Opinions
Formal and informal opinions are also issued by state and local bar associations. Similar to ABA opinions, they generally address whether specific conduct violates ethical rules. Formal and informal opinions are usually non-binding persuasive authority. However, researchers should consult the law of the specific jurisdiction to determine the weight opinions carry. Sources of opinions include:

National Reporter on Legal Ethics and Professional Responsibility, Jacobstein, Myron J., Roy M. Mersky and Norman Quist (Fredrick, M.D.: University Publications of America, 1982 – present) OCU Call # KF 308.A6 (Reference). This publication reprints formal and informal ethics opinions from state and local bar associations. The set is organized by state. In comparison with the ABA/BNA looseleaf this set provides the full text rather than digests of ethics opinions. Also available from the Lexis/Nexis library (ETHOP).

ABA/BNA Lawyer’s Manual of Professional Conduct (Washington D.C.: BNA, 1980) OCU Call # KF 305.A8 (Reserve). This looseleaf provides a digest form of state opinions. A URL is provided to state bar association websites were the entire opinion is available. Indexes provide subject access.

The American Legal Ethics Library at Cornell’s Legal Information Institute provides links to ethics opinions available from state bar association websites at: http://www.l aw.cornell.edu/ethics/listing.html

The LegalEthics.com website provides links to ethics opinions available from state bar association websites at: http://www.legalethics.com/ethics.law

Cases
Cases discussing and interpreting the Model Rules are a source of mandatory legal authority on the subject, in contrast to ethics opinions which can merely be persuasive. Two methods of searching for cases will be discussed: cases interpreting a known rule and cases by subject.

Searching for cases interpreting a known rule:

Shepard’s Professional and Judicial Conduct Citations (Colorado Springs: Shepard’s, 1991) OCU Call # KF 308.A535 (3rd Floor N). This print source is the only citator devoted the Model Rules and Model Code of Judicial Conduct, the electronic version and KeyCite do not contain citations to these enactments. This citator will list citations to cases and secondary authority interpreting specific rules.

An additional strategy is to run a citation to the know rule through the Lexis/Nexis and/or Westlaw databases listed below.

Searching for cases by subject:
ABA/BNA Lawyer’s Manual of Professional Conduct (Washington D.C.: BNA, 1980) OCU Call # KF 305.A8 (3rd Floor N). The Current Reports bi-weekly newsletter lists cases by subject from around the country interpreting ethical rules. Look for the binder labeled “Current Reports.” Also consult the manual volume which is organized by subject matter and contains ample citations to case law.

Search for cases in the West Digest under the topic Attorney and Client.

The Lexis/Nexis database allows you to search a combined database of case law from all states (ETHICS;ETHCAS) and case law from individual states by entering the postal abbreviation for a specific state (ETHICS;XXCTS).

The Westlaw database allows you to search for federal ethics cases (FETH-CS) a multi-state database of ethics cases (METH-CS) and for cases from individual states by entering the postal abbreviation for a specific state (XXETH-CS).
Looseleafs and Treatises (KF 297-334)

*ABA/BNA Lawyer's Manual of Professional Conduct* (Washington D.C.: BNA, 1980) OCU Call # KF 305.A8 (Reserve and 3rd Floor N). This multi-volume looseleaf publication contains extensive information on professional responsibility. The set is divided between the Manual, Current Reports and Ethics Opinions volumes. The single volume "Manual" is divided into subject sections. Each section contains a practice guide summarizing model rules, standards, court decisions and ethics opinions; background section providing historical information; application section containing practical examples of how courts have dealt with issues; and, a table of contents. The entire volume has its own index. Current Reports is a bi-weekly newsletter that lists cases by subject from around the country interpreting ethical rules. The Ethics Opinions binders report ABA formal and informal ethics opinions and opinions from state bar associations from 1980 - present. Each binder contains a subject index. Available from Westlaw but not included in our academic subscription (ABA-BNA).


*National Reporter on Legal Ethics and Professional Responsibility*, Jacobstein, Myron J., Roy M. Mersky and Norman Quist (Fredrick, M.D.: University Publications of America, 1982 – present) OCU Call # KF 308.A6 (Reference). This publication reprints state ethical codes and bibliographies. The set is organized by state. In comparison with the ABA/BNA looseleaf this set provides more of the legislative history of each state's ethical code and provides the full text rather than digests of ethics opinions. Also available from the Lexis/Nexis library (ETHOP).
Rotunda, Ronald D., *Legal Ethics: The Lawyer’s Deskbook on Professional Responsibility* (St. Paul: West, 2002) OCU Call # KF 306.A4 (Reserve). This single volume soft bound treatise is organized around the Model Rules. It includes a table of cases, table of Model Rule citation and an index. Also available from Westlaw (LEGETH).


Wolfram, Charles W., *Modern Legal Ethics* (St. Paul: West, 1986) OCU Call # KF 306.W59 (Reserve). This is the West hornbook on the subject.

**Treatises Focusing on Ethical Issues in Specific Practice Areas**


Legal Encyclopedias and ALR Annotations


*Corpus Juris Secundum* (St. Paul: West, 1936 - ) OCU Call # KF 154.C56 (Reference). Consult volumes 7 and 7A under the topic “Attorney and Client” for coverage of ethical issues. The library no longer subscribes but you may access on Westlaw (CJS).


**Articles**

Two critical considerations when searching for law review articles are: 1) Are you searching in a full text database or just bibliographic information (author, title, subject, etc ...). 2) What dates does your database or index cover.

Some well known journals focusing on legal ethics include:

- Criminal Justice Ethics
- Georgetown Journal of Legal Ethics
- Journal of the Institute for the Study of Legal Ethics
- Journal of the Legal Profession
- Notre Dame Journal of Ethics & Public Policy
- The Professional Lawyer

Search for articles in the following databases:

Lexis/Nexis library of legal ethics law review articles (LAWREV;ETHICS). Keep in mind that this database searches the full text of articles but generally only includes articles after 1980.

Westlaw database of legal ethics and professional responsibility journals (ETH-TP). Keep in mind that this database searches the full text of articles but generally only includes articles after 1980.

*Current Law Index* (indexes by title, author, and subject) (1980 – present) Originally introduced because the *Index to Legal Periodicals* was not covering all periodicals and practice resources. It is similar to ILP but it includes separate subject and author/title indexes. Available electronically through LegalTrac and the Westlaw database (LRI).

*Index to Legal Periodicals* (one index combining title, author and subject) (1886 – present) and online from 1981 – present. Also accessible from the Lexis library (LAWREV;ILP) and the Westlaw database (ILP).
LegalTrac is a database that searches author, title, subject and some full text articles from around 1980 – present. Searches author, title, subject and other bibliographic information and the full text of journals included in full text.


See Dean Hellman’s monthly column “Ethical Considerations” in _The Briefcase_, newsletter of the Oklahoma County Bar Association.

**Internet Resources**

ABA Center for Professional Responsibility provides the text of ethical codes, information about Center activities and publications, accessible at:
http://www.abanet.org/cpr/home.html

Cornell’s Legal Information Institute American Legal Ethics Library includes the text of the Model Rules, comparison to the text of state codes of professional responsibility and narrative descriptions of the professional responsibility codes from eighteen states, accessible at: http://www.law.cornell.edu/ethics/

Findlaw Ethics and Professional Responsibility page provides links to state bar associations ethics rules and opinions, codes of conduct for lawyers working for various agencies and news sources, accessible at:
http://www.findlaw.com/01topics/14ethics/gov_laws.html

Legal Ethics.com provides access to federal and state ethical codes, articles on legal ethics and other resources, accessible at: http://www.legalethics.com/

**Oklahoma Resources - Oklahoma Rules of Professional Conduct**

The Oklahoma Model Rules are modeled on the Model Rules of Professional Conduct. The current version was adopted in 1988. For a discussion of Oklahoma’s adoption of the Oklahoma Rules of Professional Conduct see pp. ii-iv of: _Oklahoma Opinions on Professional Responsibility_ (Oklahoma City: OBA, 1991) OCU Call # KFO 1276.5.A2 (Reserve). The Model Rules are accessible from the following sources:

_OKLA. STAT. ANN. Tit. 5, ch. 1. App. 3A. (2003)._

From the Oklahoma Supreme Court Network (OSCN) by clicking Legal Research > Court Rules > Oklahoma Rules of Professional Conduct, accessible at:
http://www.oscn.net

_Ethics At Your Fingertips_ CD-ROM (Oklahoma City: Oklahoma Bar Association, 1999) OCU Call # KFO 1276.5.A2.
Other Relevant Rules

All are also accessible from the Ethics At Your Fingertips CD-ROM and from OSCN by clicking Legal Research > Court Rules, accessible at: http://www.oscn.net

Aspirational Standards
Oklahoma Bar Association Lawyer's Creed (adopted November 17, 1989),
http://www.okbar.org/ethics/creed.htm

Standards of Professionalism (adopted December 20, 2002),
http://www.okbar.org/gericounsel/standards.htm

Ethics Opinions
The Legal Ethics Committee of the Oklahoma Bar Association prepares advisory opinions for approval and issuance by the OBA's Board of Governors. Legal ethics opinions are intended as a guide to responsible professional behavior. Advisory opinions shall only have such force and effect as they are given by the Supreme Court of the State of Oklahoma and shall not be construed as anything but advisory in nature. (description taken from the OBA website). Opinions are found in the following sources:

Opinions are printed in the OKLAHOMA BAR JOURNAL (current issue on reserve, past issues in periodicals wing).


Oklahoma Decisions vols. 341-343, 411-413 and 523-526 contain early Opinions.


The OBA website includes an ethics opinion search function at,
http://www.okbar.org/ethics/ethics.htm

Individual opinions may be retrieved by entering the number of the opinion in the blank: http://www.okbar.org/ethics/__.htm
Oklahoma Judicial Ethics Advisory Opinions

Oklahoma Ethics Commission
According to the Oklahoma Constitution, Article XXIX, the Commission promulgates rules of ethical conduct for state officers and employees and for candidates for elective office. The Commission issues ethics interpretations, informal opinions and initiates action in District Court for ethical violations. The rules are relevant to Oklahoma state government attorneys and attorneys holding elective office. The Commission’s website provides access to rules, ethics interpretations and informal opinions, accessible at: http://www.state.ok.us/~ethics/

Oklahoma Supreme Court Decisions on Disciplinary Proceedings
The Oklahoma Supreme Court has original and exclusive jurisdiction in all attorney discipline matters. State ex rel. Oklahoma Bar Ass’n v. Gasaway, 810 P.2d 826, 830 (Okla. 1991). With that being said, not every disciplinary complaint against an Oklahoma attorney will be decided by the Oklahoma Supreme Court. View the diagram on the last page of this research guide and consult the article cited below by Dan Murdock detailing the multi-level process a grievance must pass through before actually making it to the Oklahoma Supreme Court. Not all grievances that make it to the Court result in a written opinion, again, see the Murdock article for details. When the Court takes public action in a grievance the results are published as an opinion of the Court in the following places:

Pacific Reporter
OSCN, click Legal Research > Oklahoma Cases > Oklahoma Supreme Court Cases, accessible at: http://www.oscn.net

Oklahoma Opinions on Professional Responsibility (Oklahoma City: OBA, 1991)
OCU Call # KFO 1276.5.A2 (Reserve). Contains decisions from 1954 through 1990 with an index by attorney disciplined.

Ethics At Your Fingertips (Oklahoma City: Oklahoma Bar Association, 1999)
OCU Call # KFO 1276.5.A2.

In the Westlaw database (OK-ETH) and Lexis/Nexis database (OKCTS).
Secondary Sources

Murdock, Dan, General Counsel of the Oklahoma Bar Association, provides a summary of the steps in the disciplinary process at pp. v-xi of: *Oklahoma Opinions on Professional Responsibility* (Oklahoma City: OBA, 1991) OCU Call # KFO 1276.5.A2 (Reserve).

The library has several Oklahoma CLE programs focusing on legal ethics. Browse the shelves around KFO 1276.5.L44 (LLS). Some of the titles include:

*Legal Ethics 101* (Oklahoma City: OBA, 1996) OCU Call # KF 1276.5.L44 (LLS).


*Ethics At Your Fingertips* (Oklahoma City: Oklahoma Bar Association, 1999) OCU Call # KFO 1276.5.A2. This CD-ROM contains the following: Oklahoma Rules of Professional Conduct; Oklahoma Legal Ethics Advisory Opinions (by subject matter or number); Oklahoma Rules Governing Disciplinary Proceedings; Oklahoma Supreme Court Decisions On Disciplinary Proceedings; Oklahoma Bar Association Lawyer's Creed; Oklahoma Bar Association Guidelines For Professional Courtesy; Code Of Judicial Conduct; Oklahoma Judicial Ethics Advisory Opinions; Rules Of The Court On The Judiciary; Rules Of The Council On Judicial Complaints; and other resources.

Mark W. Dixon and James E. Golden, Jr., "Practical Primer: Practicing Before the Professional Responsibility Tribunal" vol. 69 no. 22 OKLA. B. J. 1941 (5/30/98)

The Professional Responsibility Commission issues an Annual Report detailing its activities for the year including detailed statistics on the number and type of grievances disposed of during the year. The Report is accessible at:

http://www.okbar.org/gencounsel/prcannual02.htm

Articles by OBA General Council are accessible from their website at:

http://www.okbar.org/gencounsel/articles.htm

Articles discussing Oklahoma legal ethics may appear in the *OKLAHOMA CITY UNIVERSITY LAW REVIEW, UNIVERSITY OF OKLAHOMA LAW REVIEW* or *TULSA LAW REVIEW* and *OKLAHOMA BAR JOURNAL*. All three law reviews may be searched on Westlaw (OKJLR) and on Lexis/Nexis (OKLRV). Relevant Oklahoma Bar Journal
articles may be viewed from 1994 – present by subject (choose “professional responsibility” and “ethics”), accessible at: http://www.okbar.org/barjournal/

© 2004 Lee Peoples Comments lpeoples@ak-cu.edu  Page last modified: 8/30/05