

You have presented a hypothetical situation concerning a Legal Services office whose office is near a General District Court. Many *pro se* litigants who are not eligible for representation by the Legal Services office make inquiries to that office and requests forms.

Under the facts you have presented, you have asked the committee to opine as to whether attorneys with the Legal Services office may ethically provide forms to *pro se* litigants not represented by Legal Services, and to whom no legal advice would be given.

The appropriate and controlling disciplinary rules relative to your inquiry are Rules 3.4(d) and 8.4(c):

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation

In LEO #1592, the committee opined that where a court requires that all drafters of pleadings disclose their identity as such to the court, it may violate former DR 7-105(A)'s prohibition against violating, or directing a client to violate, a rule of court as well as former DR 1-102(A)(4)'s prohibition against misrepresentation. The committee notes that the text of those rules now appears in current rules 3.4(d) and 8.4(c), respectively. In LEO #1592, attorneys were drafting the pleadings for *pro se* litigants. In contrast, the members of your staff will merely be providing blank forms. This distinction was made by the Unauthorized Practice of Law Committee of the Virginia State Bar in determining that mere provision of forms is not the practice of law, whereas the completion of those forms would be. *See* UPL Op. 73. Using that same distinction, this committee opines that it would not be "ghost-writing" requiring disclosure to the court, as contemplated in LEO #1592, for members of a legal aid staff to provide various legal forms to *pro se* litigants, so long as no assistance is provided in the completion of those forms. Provision of the forms, alone, does not violate Rules 3.4(d) and 8.4(c).

This opinion is advisory only, based only on the facts you presented and not binding on any court or tribunal.

Committee Opinion
January 6, 2002