

Committee Opinion  
July 18, 1994

LEGAL ETHICS OPINION 1601

CONFIDENCES AND SECRETS:  
ATTORNEY EMPLOYED BY  
ACADEMIC INSTITUTION.

You have presented a hypothetical situation in which Professor X is a licensed attorney at a state institution of higher learning. You indicate that she has been asked, as a condition of employment, (1) to disclose to the administration confidences or secrets of academic colleagues or students who have requested her legal advice; and (2) to assure the administration that she will not accept or treat as a confidence or secret any information disclosed to her by an academic colleague or student.

You have asked the committee to opine whether, under the facts of the inquiry, the professor/lawyer would be in violation of the Disciplinary Rules by (1) disclosing such information or (2) giving such assurance.

The appropriate and controlling Disciplinary Rule related to your inquiry is DR:4-101, which provides that a lawyer should preserve client confidences and secrets.

The committee has previously opined that even though an attorney-client relationship may not have arisen in other respects, a person's meeting or interview with an attorney may create an expectation of confidentiality which must be protected by that attorney. See LE Op. 1453, LE Op. 1457. The committee believes, therefore, that, in a situation where such an expectation arose, Professor X would be in violation of DR:4-101 if she were to disclose to the administration confidences or secrets of academic colleagues or students. However, the committee is of the opinion that, although the institution of higher education cannot require the attorney/professor to divulge confidences and secrets, a regulation restricting receipt by the employee of confidences and secrets in the context you described would not be improper under the Rules. In such case, the attorney/professor should issue a disclaimer to colleagues or students indicating that no attorney/client relationship will be formed and any information received will not be treated as secret or confidential.