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Northern
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KENTUCKY LEGAL ETHICS RESEARCH: A CRIB SHEET

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Introduction

The Kentucky Rules of Professional Conduct are the starting point for any legal ethics question. If the answer is not found within the rules then you may need to conduct a comprehensive search of your issue. This guide lays out the steps for conducting legal ethics research and highlights the key resources available.

Foundation

The Kentucky Constitution, Section 116, empowers the Kentucky Supreme Court to govern admission to the bar and discipline of members of the bar. According to KRS 21A.160, the Kentucky Supreme Court is authorized to adopt rules and regulations to govern the conduct and activity of the state bar and its members. The Kentucky Supreme Court delegated to the Kentucky Bar Association the authority to issue opinions on the ethical conduct of Kentucky's lawyers.

Conducting Your Research

The three main sources for Kentucky ethics law are: the Kentucky Rules of Professional Conduct; the federal and state judicial decisions of Kentucky; and the ethics opinions of the Kentucky State Bar Association.

Kentucky Rules of Professional Conduct

The current version of the Kentucky Rules of Professional Conduct was adopted in 1989 and came into effect on January 1, 1990. These rules are found as part of the Kentucky Supreme Court Rules 3.130 et seq. and the rules can be located via the following resources:

- **Rules of Professional Conduct**, The Kentucky Bar Association Website <http://www.kybar.org/?page=Rulesprofessional> provides the text of the rule and a history of each rule. The source does not include case annotations.
- **Kentucky Rules of Professional Conduct**, Casemaker
Select Kentucky > State Court Rules > Rules of the Supreme Court provides the text of the rule and a history of each rule. The source does

not include case annotations.

- **Kentucky Rules of Professional Conduct, Rules of the Supreme Court**, located in the "Kentucky Rules" volumes of the *Kentucky Revised Statutes Annotated*. The *Kentucky Revised Statutes Annotated* includes three to four "rules" volumes and these volumes include the text of the rule, a history of each rule, commentary, plus citations to case law, and scholarly articles. The annotated rules can easily be found via Lexis Advance or WestlawNext.

- **Lexis Advance** - Type in KY Rules to access the Kentucky Local, State and Federal Court Rules. You can use the Table of Contents feature or search for a specific rule. Follow these steps to access the rules: Select the Table of Contents > Rules of the KY Supreme Court > Practice of Law > 3.130 Kentucky Rules of Professional Conduct and skim through the rules. You can view a history of the rule, case notes, research references, and links to any practice aids.

- **WestlawNext** - Select Kentucky and then choose Kentucky Statutes and Court Rules. Scroll down to Rules of the Kentucky Supreme Court and then scroll down to Kentucky Rules of Professional Conduct. Use the KeyCite feature to view a history of the rule, library references, and citing references.

Case Law

Cases discussing and interpreting ethical rules are a source of mandatory authority on the subject and are the result of an appeal of a state or local bar disciplinary proceeding. You can search for case law interpreting a specific Kentucky Supreme Court Rule or you can try a keyword search using any of these databases:

- **Casemaker** - Search Kentucky Case Law Library.
- **Lexis Advance** - Narrow your research to Kentucky - Jurisdiction or search the Lexis Ethics Library.
- **WestlawNext** - Limit the search to

Kentucky and Federal Cases or to the Legal Ethics & Professional Responsibility Cases Library.

Kentucky Formal Ethics Opinions

Formal advisory opinions are issued by the Kentucky Bar Association Ethics Committee. The formal opinions are considered a valuable source for interpreting the Rules of Professional Conduct. The opinions generally address whether a specific conduct violates ethical rules. All formal opinions initially appear in the *Kentucky Bench & Bar* and are posted on the Kentucky Bar Association Formal Ethics Opinions website. The following resources offer access to the Kentucky formal ethics opinions:

- **Kentucky Formal Ethics Opinions**, Kentucky Bar Association Website <https://www.kybar.org/?page=opinsethics#2014>
The Kentucky Ethics opinions are organized by year and also by opinion number and the coverage is 1962 to 2014. The KBA website is an excellent tool if you know the opinion number or the year the opinion was issued. The search engine for the website can be unreliable so this website is not the best source for locating ethics opinions by topic.

- **Kentucky Legal Ethics and Professional Responsibility Deskbook**, University of Kentucky Office of Continuing Legal Education. The 5th edition (published in Jan. 2016) is available at the Chase Law Library. It provides an index to formal ethics opinions and reprints the ethics opinions. The deskbook offers the text of current and past professional ethics codes for Kentucky, judicial ethics opinions, and resources on the



unauthorized practice of law.

Help Researching Multi-Jurisdictions

You may need to expand your research and review the ethics rules, judicial decisions, and ethics opinions from other states. Here are the best tools for conducting this multi-jurisdictional research:

- **ABA/BNA Lawyers' Manual on Professional Conduct**, Bureau of National Affairs (BNA).

A comprehensive tool which includes the text of the Model Rules; summaries of state ethics rules which indicate how each state's ethic rules differ from the Model Rules; full text of ABA ethics opinions, digests of state and local bar association ethics opinions; and commentary discussing trends and key issues. The resource is located on the 2nd Floor of the Chase Law Library and available electronically via the Bloomberg BNA Database service while in the library.

- **Annotated Model Rules of Professional Conduct**, American Bar Association.

This handbook provides the text of the ABA Model Rules and lists selected cases interpreting a rule. The treatise provides an introduction to ethical issues and identifies cases and scholarly articles. The latest edition of the treatise is located in the Reference Collection of the Chase Law Library and it is also available on WestlawNext.

- **ABA Center Ethics Opinions**, WestlawNext ABA formal opinions since 1924 and informal opinions since 1961.

- **The ABA Center for Professional Responsibility** website http://www.americanbar.org/groups/professional_responsibility/publications/ethics_opinions.html

ABA members have free access to the online library of formal ethics opinion issued since 1984. The opinions are organized by issue date or by subject.

Final Recommendation

The Kentucky Legal Research Manual provides a chapter on "legal ethics research." A new edition of the guide is expected in 2016 and I highly recommend this manual to any attorney practicing in

Kentucky. The manual is published by the University of Kentucky Office of Continuing Legal Education - phone (859) 257-2921.

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From left: Kathryn E. Smith (Partner), David S. Stallard (Of Counsel), John P. Davis (Partner), Gregory J. Lunn (Partner), Kurt A. Summe (Partner)

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