



Committee on Professional Ethics

Opinion #348 - 6/21/74 (35-73)

Topic: Obligation to respond to grievance committee inquiry

Digest: Lawyer is obliged to respond to grievance committee inquiry, but response may include bona fide claim of privilege.

Code: Canon 1, 8, 9.
EC 1-1, 8-7, 9-1, 9-6.
DR 1-102(A)(5) and (6).

QUESTION

Does a lawyer have a professional obligation to respond to an inquiry from a grievance committee having jurisdiction to investigate his conduct?

OPINION

It is incumbent upon a lawyer to respond promptly to an inquiry from a grievance committee or other agency having jurisdiction to investigate or act upon his conduct. A lawyer who totally ignores or fails to make an appropriate response to such an inquiry would be acting in violation of his affirmative obligations under DR 1-102(A)(5) and (6) not to "engage in conduct that is prejudicial to the administration of justice" or "conduct that adversely reflects on his fitness to practice law". In responding to any such inquiry, the lawyer may, however, properly include any bona fide claim of privilege available to him under the Federal or State Constitution or other applicable law. Cf. Spevack v. Klein, 385 U.S. 511 (1967).

ABA Inf. 1279 (1973) adopts a somewhat different analysis in answering a similar question with a "qualified 'no'", largely on the basis of the lawyer's constitutionally protected privilege against self incrimination. While we reach a contrary conclusion as to the obligation to respond, our opinion fully recognizes as an appropriate response one which includes a claim of any applicable privilege.

Other provisions of the Code which bear on the question posed are Canon 1, Canon 8 and Canon 9. Canon 1 obligates a lawyer to assist in maintaining the integrity and competence of the legal profession. Canon 8 imposes an obligation to assist in improving the legal system. Canon 9 makes it his responsibility to avoid even the appearance of evil. See also EC 1-1, EC 8-7, EC 9-1 and EC 9-6.