



NEW YORK STATE
BAR ASSOCIATION

Report and Recommendations of the **New York City Bar Association** **Hotline Immunity Proposal**

June 2026

**New York State Bar Association
House of Delegates**

June 27, 2026

Resolution

Be it resolved that, to strengthen and support the important service of bar associations in our state in providing ethics hotlines and other ethics advice to particular members of the bar, the House of Delegates approves, and recommends that the Legislature pass, a bill proposed by the New York City Bar Association to ensure that the confidentiality of communications between a lawyer and a legal ethics guidance program sponsored by a bar association is legally protected and to provide qualified immunity for the bar association members providing this voluntary advice. The proposed bill is attached.



REPORT BY THE PROFESSIONAL ETHICS COMMITTEE

PROPOSAL TO ENACT A STATUTE PROVIDING CONFIDENTIALITY PROTECTION TO ETHICS HOTLINE CALLS

Bar associations serving primarily lawyers licensed in New York offer three types of programs to help members of the legal profession or members of the public: lawyer assistance programs, legal referral services, and lawyers' ethics hotlines. The goals of all three are to assure the proper functioning of the legal system and the public's trust in that system. New York statutes recognize, that to ensure the first two of these programs function effectively, communications with their representatives, although not creating an attorney-client relationship, need to be confidential and those operating the program must be immune from civil liability arising from their actions in that capacity. No statute, however, addresses legal ethics hotlines' confidentiality or immunity. The New York City Bar Association ("City Bar"), through its Professional Ethics Committee, proposes amending New York's Judiciary Law to extend to lawyers' ethics hotlines the same confidentiality and immunity protections provided to lawyer assistance programs and legal referral services. A copy of the proposed statute is appended to this report.

BACKGROUND – BAR ASSISTANCE PROGRAMS

Lawyer Assistance Programs. These programs operate hotlines that provide advice and support to New York lawyers, judges and law students facing personal issues, such as alcohol and drug addiction, stress, anxiety, depression, and other mental health concerns at no charge. The confidentiality of such consultations and immunity for those providing the advice and support are assured by New York Judiciary Law §499.

Legal Referral Services. New York bar associations operate these programs to provide information and guidance to members of the public who believe they may require legal advice or assistance. The services offer legal information and make referrals to lawyers, legal aid societies, and government and social services that can help resolve issues the inquirers have at no charge. New York Judiciary Law §498 extends the attorney-client privilege to communications with lawyer referral services as well as civil immunity to the services.¹

¹ The City Bar supported the establishment of a lawyer referral service-client privilege. See Report by the New York City Bar Association Proposing Amendments to § 498 of the Judiciary Law Regarding Confidentiality Protections for Consumers of Legal Services Contacting a Legal Referral Service or Lawyer Referral Service, April 27, 2015, https://www.nycbar.org/wp-content/uploads/2023/05/LRSAttyClientPrivilege_LRS_ReportFINAL4.27.15.pdf; see also Report in Support of

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has over 20,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

Lawyers’ Ethics Hotlines. Bar association ethics committees operate hotlines that, although not intended to establish an attorney-client relationship, provide lawyers guidance on how to resolve questions about their own obligations under the New York Rules of Professional Conduct, 22 N.Y.C.R.R. Part 1200. These programs are staffed by volunteers, and inquiring lawyers are not charged. Unlike the other programs, there currently is no assurance of confidentiality for lawyers’ ethics hotline calls, and no immunity is afforded to the services and volunteers that provide the ethics advice.

THE NEED FOR CONFIDENTIALITY AND IMMUNITY FOR ETHICS HOTLINES

We believe that lawyers’ ethics hotlines are no less important than lawyer assistance programs and legal referral services in assuring the proper functioning of the legal system. Indeed, the New York Rules of Professional Conduct specifically include an exception to lawyers’ confidentiality obligations to permit lawyers to disclose client confidences as necessary to obtain ethics advice. Rule 1.6(b)(4) states that “[a] lawyer may reveal or use confidential information to the extent that the lawyer reasonably believes necessary ... to secure legal advice about compliance with these Rules by the lawyer, another lawyer associated with the lawyer’s firm or the law firm.” If the lawyer retains counsel to provide this ethics advice, the communications are protected by the attorney-client privilege, New York Civil Practice Law and Rules § 4503. But when an attorney calls an ethics hotline, the inquiring lawyer must be told that the attorney-client privilege does not apply to the communication and the hotline cannot guarantee that the communication will be kept confidential. This is an obvious gap that should be addressed. People seeking legal advice, including lawyers seeking ethics counseling, cannot be open about the problems they face unless they can be assured confidentiality. Indeed, the attorney-client privilege rests on the principle that if a person cannot be open with their lawyer, then the lawyer cannot provide proper advice. Although an attorney-client relationship is not established between the inquiring lawyer and the lawyer staffing the ethics hotline, the same principle applies.

Like the members of the public that use the services of lawyer assistance programs and the legal referral services, lawyers who call the lawyers’ ethics hotlines are not charged for the advice and assistance they receive. Further, those who operate the lawyers’ ethics hotlines are unpaid volunteers. However, unlike the other two types of bar association services lawyers’ ethics hotlines do not have civil immunity, so the ethics advice must be qualified to reflect this.

PROPOSED STATUTE

We propose that New York adopt a new statute in its Judiciary Law affording confidentiality to communications with lawyers’ ethics hotlines and immunity to those who provide the hotline services. This proposal is modeled on New York Judiciary Law §499, which provides such protections to lawyer assistance programs. Under the proposed statute, the confidentiality protection could be waived only by the lawyer seeking advice. For example, if in a

Legislation Establishing that the Attorney-Client Privilege Shall Apply to Communications between a Lawyer Referral Service and a Client, Jan. 19, 2018, <https://www.nycbar.org/reports/report-in-support-of-legislation-establishing-that-the-attorney-client-privilege-shall-apply-to-communications-between-a-lawyer-referral-service-and-a-client/?back=1> (all websites last accessed Nov. 11, 2025)

grievance matter or in response to questions about the lawyer's conduct raised by a tribunal, opposing counsel or a client, the lawyer states that the lawyer was acting in accordance with advice given by an ethics hotline, confidentiality would be waived. Those on the bar association lawyers' ethics hotlines who provide advice as well as the bar association that operates that hotline also would be immune from civil liability. A copy of the proposed statute is appended to this report.

CONCLUSION

The City Bar supports the introduction and passage of the attached draft bill to ensure that communications between a lawyer and a legal ethics guidance program sponsored by a bar association are legally protected, just like the communications between attorney and client. This protection should apply even though no attorney-client relationship exists. New York should take a leading role nationally by addressing this important issue before any volunteer lawyers staffing the hotlines or inquiring lawyers relying on the ethics hotline are forced to face this issue without any protections.

Professional Ethics Committee
Michael E. Salzman, Chair

November 2025

Contact

Elizabeth Kocienda, Director of Advocacy | 212.382.4788 | ekocienda@nycbar.org

APPENDIX

**PROPOSED LEGISLATION PROVIDING CONFIDENTIALITY
PROTECTION TO ETHICS HOTLINE CALLS**

STATE OF NEW YORK

2024-2025 Regular Sessions

AN ACT to amend the judiciary law, in relation to establishing confidentiality protection to attorneys ethics hotlines

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The judiciary law is amended to read as follows:

2 Lawyer Ethics Guidance Program

3 1. Confidential information privileged. The confidential communications
4 between a member or authorized agent of a program sponsored by a state or local bar
5 association that provides guidance to lawyers, law firms or law departments to assist such
6 person or entity in assuring that his, her or its own conduct comports with Rules of
7 Professional Conduct and any person, firm or corporation communicating with such
8 program, its members or authorized agents shall be deemed to be privileged on the same
9 basis as those provided by law between attorney and client notwithstanding that such
10 communications do not establish an attorney-client relationship. Such privilege may be
11 waived only by the person or entity that has requested guidance from the program.

12 2. Immunity from liability. Any person or entity in good faith providing information to,
13 or in any other way participating in the affairs of, any of the programs referred to in
14 subdivision one of this section as well as the programs shall be immune from civil
15 liability that might otherwise result by reason of such conduct. For the purpose of any
16 proceeding, the good faith of any such person or entity shall be presumed, and such
17 presumption may be rebutted only by clear and convincing evidence of willful
18 misconduct.

19 § 2. This act shall take effect immediately.



NEW YORK STATE BAR ASSOCIATION
NEW YORK CITY BAR ASSOCIATION
HOTLINE IMMUNITY PROPOSAL

One Elk Street
Albany, NY 12207