



ILLINOIS STATE
BAR ASSOCIATION

ISBA Advisory Opinion on Professional Conduct

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This Opinion was **AFFIRMED** by the Board of Governors in July 2010. Please see the 2010 Illinois Rules of Professional Conduct 7.1, 7.2, and 7.3. This opinion was affirmed based on its general consistency with the 2010 Rules, although the specific standards referenced in it may be different from the 2010 Rules. Readers are encouraged to review and consider other applicable Rules and Comments, as well as any applicable case law or disciplinary decisions.

Opinion Number 727
April 30, 1981

Topic: Solicitation of Business
Private Communications ; Benign Solicitations;
Seminars and Lectures

Digest: It is not professionally improper for a lawyer to send letters to persons who are not his clients offering to conduct seminars upon legal subjects currently of concern to the addressees.

Ref: Rule 2-103; Rule 2-104.
EC 2-9.
ISBA Opinions 623 and 648.
Ohralik v. Ohio State Bar Assoc., 436 U.S. 447 (1978).
In re Marshall I. Teichner, 75 Ill.2d 88 (1979).
Rhoades v. Norfolk & Western Ry. Company, 78 Ill.2d 217 (1979).

QUESTION

May a lawyer for school districts write letters to representatives of other school districts (not clients of the lawyer) stating that he has observed certain very complex legal issues which have been arising in the area of school law, offering to conduct seminars upon the current legal problems attendant to those issues, and soliciting expressions of the addressees' interest in

attending the proposed seminars?

OPINION

The private communication addressed to the non-client school districts does not recommend or solicit employment of the lawyer who offers to conduct the seminars and hence does not violate Rule 2-103 of the Code of Professional Responsibility.

Even though the proposed private communication does not directly advertise the merits of the lawyer who proposes to conduct the seminars and does not directly solicit legal business, it is appropriate to determine its professional propriety as if it did constitute advertising and solicitation of legal business.

Ohralik v. Ohio State Bar Association, 436 U.S. 447 (1978), held that a lawyer's solicitation of business through direct, in-person communication with prospective clients may constitutionally subject a lawyer to professional discipline if the communication is made under circumstances likely to impose dangers which a State has the right to prevent.

The seminar, of course, must be conducted in a dignified manner and must not, to any extent, be based upon or constitute fraud, undue influence, intimidation, overreaching, or vexatious conduct. See Rhoades v. Norfolk and Western Ry. Company, 78 Ill.2d 217 (1979), and In re Marshall I. Teichner, 75 Ill.2d 88 (1979).

However, the Committee cautions that the acceptance of employment arising out of contacts initiated through such seminars may be accepted only if there is compliance with Rules 2-103 and 2-104. The Committee is unable to be more responsive because of the inartful manner in which the Rules referred to have been drafted.

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