

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-278
Issued: September 1983

This opinion was decided under the Code of Professional Responsibility, which was in effect from 1971 to 1990. Lawyers should consult the current version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.

Question: May a Bar Association conduct a judicial poll?

Answer: Yes.

References: Canon 8; ABA Code of Professional Responsibility; EC 8-6; SCR 4.300; Kentucky Registry of Election Finance v. Louisville Bar Association, Ky., App., 59 S.W.2d 622 (1978); Gorman v. Lukowsky, 6 CA., 431 F.2d 971 (1970); Drinker, Legal Ethics; ABA I.O. 841

OPINION

Lawyers have a duty to assist in improving the legal system, Canon 8. They are “in a unique position to evaluate the qualifications for judicial candidates.” Kentucky Registry of Election Finance v. Louisville Bar Association, Ky., App., 59 S.W.2d 622 (1978). By conducting judicial competency polls, lawyers are assisting both the “legal system and the general public by supporting good candidates and making known the truth about their qualifications.” *Id.*

The combination of the lawyer’s duty to improve the legal system, along with his ability to judge judicial candidates’ qualifications, allows members of the bar, either individually or collectively, to conduct judicial polls, *Id.*

In the opinion of the Ethics Committee of the Kentucky Bar Association judicial polls aid in ensuring that qualified candidates are acknowledged for the benefit of the general public and are permitted under the holding of Kentucky Registry of Election Finance, and Gorman v. Lukowsky, 6 CA., 431 F.2d 971 (1970).

Drinker, Legal Ethics, states:

While the Canon does not specifically refer to the duty of the bar to see to the removal of a corrupt judge, there is no doubt as to the existence of this duty, in order to maintain the confidence of the public in the administration of Justice. (P. 61.)

Certainly, if there is a duty upon lawyers to see to it that corrupt judges are removed, there is a duty to see to it that the best candidate is elected to our Court of Justice.

In allowing a Bar Association to conduct a poll, the ABA in I.O. 841 stated:

Certainly, if endorsement is given by a bar association, candor requires a full disclosure of the nature of the meeting, the nature of the vote, number of persons present, voting, etc. In no instance should a bar association's endorsement, where this is proper under the local bylaws, be necessarily construed to be the endorsement of each individual member of the bar unless the record is clear that all members of the bar did actually concur.

We believe the above requirements of the bar association are in order and approve them in Kentucky.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.