

DIGEST OF ETHICS ADVISORY PANEL  
OPINION #88-2  
Request #3

An attorney seeks Panel advice as to whether DR 9-102(E) requires a lawyer who elects not to deposit clients' funds in an interest bearing account to give notice of his or her election every year or whether a single notice is sufficient.

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.

Disciplinary Rule 9-102(E) provides that a lawyer or law firm may elect not to deposit clients' funds in an interest bearing account as set forth in DR 9-102(C) "by notifying the Clerk of the Supreme Court in writing within (90) days of January 1, 1985 or during the month of January in each succeeding year." The Panel takes the position that once an election has been made, that election is good until the attorney gives notice of a change in election during January of a subsequent year.