

DIGEST OF ETHICS ADVISORY PANEL  
OPINION #88-21, REQUEST #15  
Issued August 30, 1988

An attorney seeks Panel advice as to whether it is permissible under the Code of Professional Responsibility for him to honor a strike by state employees. The attorney advises the Panel that in addition to being a member of the Rhode Island bar, he is an employee of the State of Rhode Island.

It is well established that even absent an express statutory prohibition, public employees are denied the right to strike against their public employer. Annotation, Public Employees-Right to Strike 37 ALR 3d 1147; City of Pawtucket et al v. Pawtucket Teachers' Alliance Local 930 et al, 87 R.I. 364, 141 A.2d 624 (1958); School Committee of the City of Pawtucket v. Pawtucket Teachers Alliance No. 930 AFT, AFL et al., 101 R.I. 243, 221 A.2d 806 (1966). Ethical Consideration 1-5 provides:

A lawyer should maintain high standards of professional conduct and should encourage fellow lawyers to do likewise. He should be temperate and dignified, and he should refrain from all illegal and morally reprehensible conduct. Because of his position in society, even minor violations of law by a lawyer may tend to lessen public confidence in the legal profession. Obedience to law exemplifies respect for law. To lawyers especially, respect for the law should be more than a platitude.

Disciplinary Rule 1-102(A) provides, in pertinent part, that:

A lawyer shall not . . . (5) engage in conduct that is prejudicial to the administration of justice. (6) Engage in any other conduct that adversely reflects on his fitness to practice law.

The Panel takes the position that you may not participate in a strike by state employees. This position is consistent with that taken by the Ethics Committee of the Ohio Bar, in Opinion 81-1:

"Engaging in [a strike] subjects the lawyer to discipline because his actions adversely affect the public image of the legal profession and are prejudicial to the administration of justice."

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.