

Laid Off During the COVID-19 Crisis: What to do

This is a tough time and legal professionals are not insulated from the economic effects of the COVID-19 pandemic. Recently, several legal professionals have called the WSBA Ethics Line to ask about their ethical obligations if they've been let go from their job. Here is a snapshot of your ethical obligations any time you leave a firm. For a more detailed review of this issue, look to the WSBA Ethics FAQ, "What are my ethical duties when I leave a firm?" ABA Formal Opinion 99-414 and ABA Formal Opinion 489 also discuss the obligations related to notice when changing firms.

Prioritize Client Interests

When a legal professional leaves a firm, the departing legal professional and the remaining members of the firm share the ethical duties of completing the transition without material adverse effects on clients. Both need to act with reasonable promptness and diligence in representing the client. (RPC 1.3.)

Inform Your Clients

Both the departing legal professional and the firm have a responsibility to inform clients about the departure in a timely manner. In the best-case scenario, they would send out a joint letter informing clients of the situation and allowing clients to make an informed decision about continued representation. (RPC 1.4.) The client always has the choice of who will represent them, be it the departing legal professional, the remaining firm, or a new representative altogether. The departing lawyer and the firm have an obligation to protect the clients' files and interests and to maintain confidentiality. (RPC 1.16(d); RPC 1.6.)

Set Up Your New Practice Ethically

If you've been let go, you may choose to set up your own practice or transfer to any other firm or legal establishment (the Rules of Professional Conduct prohibit legal professionals from making agreements that restrict the right to practice after termination of a business relationship; RPC 5.6).

Keep in mind potential conflicts of interests regarding your previous and current positions. If you join or form a new firm with other practitioners, you may be bringing conflicts with you that your new firm needs to address, such as if your former firm represented someone adverse to a client of the new firm. (RPC 1.10.) ABA Formal Opinion 09-455 discusses the need for conflict analyses subject to confidentiality limitations (RPC 1.6(b)(7)) specifically allows one to reveal information to detect conflicts arising from the lawyer's change of employment as long as the information would not compromise the attorney-client privilege or otherwise prejudice the client.

