

*Committee Opinion*  
*October 20, 1993*

*Committee Withdrew Opinion*  
*December 9, 2009*

**WITHDRAWN – December 9, 2009**

LEGAL ETHICS OPINION 1553

COMMUNICATION WITH ADVERSE  
PARTIES: PARENT'S COUNSEL IN  
CUSTODY DISPUTE MEETING WITH  
MINOR CHILD.

You have asked the committee to opine whether it is permissible, in a custody dispute, for counsel for either parent to meet with minor children without first obtaining permission from the guardian ad litem.

The appropriate and controlling disciplinary rules relative to your inquiry are DR:7-103(A)(2) which states that, during the course of his representation, a lawyer shall not give advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interests of the client; DR:7-103(B) which provides that, in dealing with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested and that a lawyer shall make reasonable efforts to correct a misunderstanding that the lawyer is disinterested; and DR:7-101(C)(5) which prohibits a lawyer from intentionally or habitually violating any established rule of procedure or of evidence where such conduct is disruptive of the proceedings.

The committee is of the view that the provisions regarding an attorney's direct communication with a represented opposing party is inapplicable to the question you have raised since a minor child is not a "party" to his parents' divorce action despite the obvious fact that the child's interests are paramount in a custody dispute related to the divorce action. Thus, the committee opines that it would not be improper for a parent's counsel to meet with minor children without the permission of the guardian ad litem. See LE Op. 1409.

However, the committee urges caution in the manner in which parent's counsel proceeds in order to maintain compliance with the requirements of DR:7-103(A)(2), DR:7-103(B) and DR:7-101(C)(5). Thus, parent's counsel may not give advice to the minor children, other than the advice to seek counsel; may not state or imply that he is disinterested in the matter; and must of course abide by any rules of court governing the role of a guardian ad litem in protecting the interests of the minor children in the event that such rules preclude contact with the children. See LE Op. 1344.

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**Legal Ethics Committee Notes.** – Rule 4.2 prohibits *ex parte* contacts with “persons” rather than “parties”.