

IBA Policy on Responding to Unfair Criticism of Lawyers

Preamble

WHEREAS:

1. The Indianapolis Bar Association (“IBA”) Image Enhancement Task Force (the “Task Force”) issued its Final Report;
2. The IBA Board of Managers (the “Board”) adopted a Resolution adopting and implementing the recommendations made in the Task Force’s Final Report;
3. The Final Report recommended that the Board appoint an Image Enhancement Plan Coordinator;
4. The Final Report provided that the Plan Coordinator “shall develop and propose a policy for responding to unfair criticism of lawyers in general as specified in the [Final Report];” and
5. In furtherance of this mandate, the Plan Coordinator, along with a subcommittee of IBA members, drafted this “Policy on Responding to Unfair Criticism of Lawyers” (the “Policy”).

THE BOARD HEREBY ADOPTS THIS POLICY to establish a procedure to respond promptly and appropriately to unfair criticism of lawyers, in order to educate the public and answer unjust comments or attacks.

Specific Policy

Organization

A Lawyer Criticism Response Committee (the “Committee”) is hereby established. The five-person Committee shall consist of the IBA President, President Elect, Counsel to the Board, and two additional at-large persons appointed by the President. The at-large Committee members shall serve at the pleasure of the President during the term of the appointing President, and thereafter as any President may request.

Requests to the Committee

Any person (including members of the Committee and non-attorneys) may request that the Committee consider responding to what might reasonably be considered to be unfair criticism or misinformation of lawyers or the legal profession. Requests originating from outside of the Committee should be in writing if possible, setting forth the specific instance of unfair criticism to which a response is sought.

Committee Responses

A response shall be made if approved by at least three members of the Committee. In determining whether a response is appropriate, the Committee shall consider: (1) whether a response would help educate the public about the role of lawyers or the legal system; (2) whether the lawyer is capable of making an adequate response in light of confidentiality requirements and other limitations of the Rules of Professional Conduct, other ethical rules, court-imposed restrictions, and other limitations and prohibitions; (3) whether the criticism was unfair; (4) whether evaluating and preparing a response, including any necessary investigation, would be overly time consuming; and (5) any other facts that should appropriately be reviewed in light of the particular criticism involved including whether the attorney criticized desires a response.

Any response shall: (1) be concise, accurate, informative, and timely; (2) correct inaccuracies in the unfair criticism; and (3) be presented in a format most likely to be appropriate to respond to the particular unfair criticism that has been leveled, or to otherwise be included in a responsive news story (i.e., a responsive letter to the editor or a news release). Individual Committee members may, with the advance approval of the Committee, provide additional comments to the media in their role as Committee members, in accordance with this Policy.

Any response shall not attempt to discredit or attack the source of the criticism, or otherwise be presented in a manner that itself might reasonably be viewed as unfairly critical.

The Committee shall provide a copy of any written response to the lawyer who was the subject of the original criticism as well as the person who requested the Committee's response. If the Committee concludes that no response is warranted, the Committee shall notify the lawyer and the requester of this fact.