


## New Ethics Opinion on Using AI to Record, Transcribe, or Summarize Conversations with Non-Clients

On August 5, 2026, the New York City Bar Association Committee on Professional Ethics published Formal Opinion 2026-2: Ethical Issues Affecting the Use of AI to Record, Transcribe, and Summarize Conversations with Persons Who are Not Clients.

The Committee summarized its opinion:

> The opinion builds upon two prior City Bar opinions – Opinion 2024-5: Generative AI in the Practice of Law, and Opinion 2025-6: Ethical Issues Affecting Use of AI to Record, Transcribe, and Summarize Conversations with Clients – and explains that the general principles set out in the earlier opinions apply to a wide variety of contexts beyond the specific context of the attorney-client relationship. The opinion also discusses issues that may arise in several specific practice contexts. The opinion concludes that, as is true with clients, an attorney should obtain consent of all other parties to a call before recording it, and should consider whether recording, transcribing and summarizing is tactically well-advised in the particular circumstances. It also recommends that, as the default practice (i.e., absent a good reason to record a conversation in a particular instance) an attorney should avoid recording conversations because of the ethical and tactical risks involved.

With regard to prospective clients, the Committee recognized a "paradox" in making the recording decision:

> On the one hand, it may be helpful to have a record of the conversation, so that an attorney can make a better decision about whether to accept the case and, should the attorney decline, to document the bases for declining if the attorney desires to preserve a documentary record. On the other hand, having a record that is accessible within the firm that turned down the client creates the risk of information sharing and a potential conflict of interest both for the individual attorney whom the prospective client consulted and for that attorney's firm.

Lawyers should carefully consider the decision to use AI to record, transcribe, or summarize conversation with anyone. Because rules and decision differ from jurisdiction to jurisdiction, be sure to check your jurisdiction's authority before making your decision.

If you have questions about this or any other risk management issues, get in touch with our senior risk management counsel at Attorneys Risk Management, and click on the "Request a Risk Management Consultation" button.



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