

Final

**Rhode Island Supreme Court Ethics Advisory Panel**  
**Opinion No. 2012-04**  
**Issued May 11, 2012**

FACTS

The inquiring attorney's law partner is a city council member in a municipality. The inquiring attorney is a member of one of the municipality's advisory commissions. The inquiring attorney asks whether he/she is permitted to represent clients in matters before the municipality's boards, commissions, law department, probate court, or the city council. Appointment to some of these either is made by the city council, or requires confirmation by the city council.

ISSUE PRESENTED

The inquiring attorney asks whether he/she may represent clients before a municipality's boards, commissions, law department, probate court, or the city council if the inquiring attorney's law partner is a member of the city council.

OPINION

The inquiring attorney is not per se prohibited by the Rules of Professional Conduct from representing clients before the municipality's boards, commissions, law department, probate court, or the city council. The inquiring attorney must determine in each case if there is a significant risk that the representation will be materially limited.

REASONING

Rule 1.7 entitled "Conflict of interest: Current clients" provides as follows.

**Rule 1.7. Conflict of interest: Current clients.** (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing.

The inquiring attorney, whose law partner is a member of a city council, is not per se prohibited from representing clients before the municipality's boards, commission, law department, probate court, or the city council. However, situations are possible that would give rise to conflicts of interest under the Rules. Whether a representation presents such a conflict of interest will depend on the unique facts of each case, and on the inquiring attorney's determination of whether his/her representation of a client would be materially limited by the lawyer's responsibilities to others or by his/her own personal interests.

The Panel concludes that the inquiring attorney is not per se prohibited from representing clients before the municipality's various boards and subdivisions, but must determine in each case if there is a significant risk that that representation will be materially limited. If he/she determines that such a risk exists, pursuant to Rule 1.7(b) he/she may represent the client provided he/she reasonably believes that he/she will be able to provide competent and diligent representation, and the client gives informed consent. See R.I. Supreme Court Ethics Advisory Panel Op. 2005-09 (2005) (if elected to city council, attorney is not per se prohibited from representing clients before city's planning and zoning boards.)

The Panel's guidance is restricted to interpretations of the Rules of Professional Conduct and does not extend to issues under the State Ethics Code or any other rules, regulations or laws that may have bearing on the issues raised by this inquiry.