

ETHICS ADVISORY PANEL

OPINION #92-91, REQUEST #331

Issued January 13, 1993

An attorney seeks Panel advice with regard to Rule 1.11 as it relates to seeking employment with a law firm. The attorney is currently employed with the State of Rhode Island. Law firm A was initially involved as counsel for a party in a matter in which the attorney is participating in. Subsequently, law firm B succeeded law firm A in this same matter. The inquiring attorney has contacted law firm A regarding future employment with the firm. The attorney at law firm A advised the attorney that this may not be feasible because law firm A may be involved in this matter again. The attorney asks whether it would be ethically appropriate to send an application for employment to law firm A.

The Panel believes that Rule 1.11 (d)(2) entitled "Successive Government and Private Employment" addresses this inquiry. The Rule states that:

(d) Except as law may otherwise expressly permit, a lawyer serving as a public officer or employee shall not:

(2) Negotiate for private employment with any person who is involved as a party or as attorney for a party in a matter in which the lawyer is participating personally and substantially...

The Panel believes that the inquiring attorney cannot solicit employment with law firm A. The attorney participated personally and substantially in a matter with law firm A while serving as a public employee which is directly prohibited by Rule 1.11 (d)(2). The comment to the Rule states that unfair advantage could accrue to the private client by reasons of access to confidential government information about the client's adversary obtainable only through the lawyer's government service.