

ETHICS ADVISORY PANEL
OPINION #94-47 REQUEST #515
Issued December 6, 1994

The inquiring attorney represented a student with disabilities in an action against School Y alleging that School Y's practice of admitting students was illegal. School Department Z was also a named party in this action. As a result of this litigation the student currently attends School Y.

School Y seeks to retain the inquiring attorney to defend a lawsuit brought by School Department Z. School Department Z alleges that School Y is violating a court order relating to student admission. The attorney asks whether he/she may represent School Y against School Department Z.

School Y also seeks to retain the inquiring attorney as its legal counsel. School Department Z has asked the inquiring attorney to provide "workshops" to the staff of School Department Z. The "workshop" would consist of educating the staff on regulations and laws pertaining to developmental disabilities of students. The inquiring attorney alleges that he/she would not represent School Department Z in any legal capacity. The attorney asks if he/she may represent School Y and whether he/she may provide workshop sessions to School Department Z.

Rules 1.7(a) entitled "Conflict of Interest: General Rule" states that:

- (a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:
 - (1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and
 - (2) each client consents after consultation.

- (b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

The inquiring attorney originally represented a student in a matter against School Y and School Department Z. School Y seeks the inquiring attorney's representation against School Department Z in another matter that is substantially related to the student's lawsuit. The Panel looks to Rule 1.7 and opines that the inquiring attorney may not represent School Y unless the student consents after consultation.

With regard to School Department Z, the Panel opines that the inquiring attorney cannot offer legal training to the staff of School Department Z if the attorney also represents another party or parties in proceedings against School Department Z. The Panel views the proposed legal training as a legal service that presents a conflict between the interests of School Department Z and of clients adverse to School Department Z.