

FINAL

ETHICS ADVISORY PANEL
OPINION # 95-56, - REQUEST # 633
ISSUED - DECEMBER 14, 1995

FACTS:

The inquiring attorney is a staff attorney at a state agency. This agency represents the state in cases in which the custodial parent is receiving welfare in an effort to secure child support for the state's benefit. The agency also represents any custodial parent not receiving welfare who, with a \$20.00 fee to the state, can pursue a child support claim. Parent Y receives welfare for a child she had with absent parent X. The state brought a contempt motion against parent X for child support owed to the state. Parent Z, who is not a recipient of welfare, also has a child with parent X and retained this state agency to pursue child support against parent X. The court has continued both cases to review the status of parent X's personal injury case. The problem is that the personal injury settlement may not satisfy both parent Y and parent Z's arrearages owed to the state. Pursuant to a Rhode Island General Law, payments toward child support arrearages in this circumstance must be apportioned. The inquiring attorney's concern is that he/she does not want to compromise the interests of the state or parent Z regarding the apportionment of funds.

ISSUE PRESENTED:

Can the inquiring attorney continue to represent parent Z under these circumstances?

OPINION:

Yes, the inquiring attorney may continue to represent Parent Z if Rule 1.7(a)(1) and (2) is followed.

REASONING:

The issue presented is whether the prohibition of Rule 1.7(a) applies. It states, in part:

- (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.

In this situation, the inquiring attorney represents the state with regard to parent Y, and parent Z against the same individual. Because there is a potential personal injury settlement to be apportioned between the state and parent Z, the matters become directly adverse to each client. Rule 1.7 states that the matters can be directly adverse to both clients and the attorney may continue the representation as long as the lawyer reasonably believes that the representation will not adversely affect the relationship between both clients and each client consents after consultation. In this situation, the inquiring attorney must fulfill Rule 1.7(a), (1) and (2)'s criteria before continuing the representation with parent Z.