

FINAL

ETHICS ADVISORY PANEL
OPINION 96-13 - REQUEST # 664
Issued - July 11, 1996

FACTS:

The inquiring attorney, a solo practitioner, is contemplating running for town council in Town A.

ISSUES PRESENTED:

May the inquiring attorney, while an elected official, appear before the Probate and Municipal Courts in Town A and /or contact the Planning and Zoning staff in Town A and; may the inquiring attorney, as an elected official, represent clients in criminal matters in Superior, District, Family and AAD Courts where Town A's police departments are involved?

OPINION:

No, in either case.

REASONING:

Rule 1.11 entitled "Successive Government and Private Employment" prevents an attorney from exploiting public office for the advantage of a private client. Rule 1.11(b) states:

Notwithstanding any other provisions of this Rule, a lawyer who has been employed by any government office or agency shall not represent a private client before that government office or agency for a period of one year following the termination of such employment.

Although Rule 1.11 addresses only successive employment, the Panel believes its rationale is equally applicable to concurrent government and private employment. If the representation is unacceptable after one has left government employment, then it would follow that one may not represent a client while currently employed in a part time capacity with the government.

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As the comments to Rule 1.11 point out, paragraph (b) is intended to prevent the appearance of impropriety that necessarily occurs when a lawyer terminates employment with a government office or agency and then appears before that office or agency representing a private client. Because the inquiring attorney will be prohibited from appearing before the Probate and Municipal Courts as well as the Planning and Zoning staff for a period of one year following termination of municipal service, he/she may not appear before such court or department during his/her tenure on the Town Council. The inquiring attorney is also prohibited from representing clients in criminal matters in Superior, District, Family and AAD Courts if Town A's police department is involved during his/her tenure and for one year thereafter.

The Panel refers the inquiring attorney to the State Ethics Commission and its Rules pertaining to elected officials. 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 a bearing on the issues raised by this inquiry.