

FINAL

ETHICS ADVISORY PANEL
OPINION 96-11, - REQUEST # 658
Issued - June 13, 1996

FACTS:

The inquiring attorney and his/her law partner represent a union in various legal matters including collective bargaining agreements and the grievance process.

The inquiring attorney's father is currently employed in a Supervisory capacity with City A. As part of his employment, Father is a member of a trial board in City A. This board decides matters relating to disciplinary complaints against union members. The inquiring attorney contemplates providing legal services to union members regarding disciplinary complaints which would result in direct contact between the inquiring attorney and his/her father in his official capacity.

ISSUES PRESENTED:

Whether the inquiring attorney's law firm can represent union members in City A in light of Father's employment with City A.

OPINION:

The inquiring attorney can represent the union in all matters except when his/her father is or may be involved in such matters.

REASONING:

Although Rule 1.8(i) applies to related lawyers who are in different firms, the Panel believes that this same rule applies by analogy to the situation described above. Rule 1.8(i) states the following:

- (i) A lawyer shall not represent a client in any matter where the lawyer knows that the lawyer's parent, child, sibling, or spouse is the lawyer representing an adverse party to the transaction except upon consent by the client after consultation regarding this relationship.

This rule reflects the perception that representation of opposing interests by closely related lawyers risks the inadvertent breach of client confidences. The focus of the rule is on direct

FINAL

June 13, 1996

Opn. 96-11, - Rqst. # 658

Page 2

conflicts rather than conflicts which might materially limit the lawyer's representation. See, Annotated Model Rules of Professional Conduct, 2nd.ed. p. 154 (1992). This concern regarding maintaining confidences is pertinent here due to the close relationship between father and child. The comments to this Rule state that the disqualification stated in sub paragraph (i) is personal and is not imputed to members of a firm with whom the lawyer is associated. If the father is involved in a specific matter, the inquiring attorney may not represent the client, but his/her law partner may because the disqualification is personal and not subject to imputation under Rule 1.10. Although the Rule and the comments suggest that the law partner may appear before the father, the Panel cautions the inquiring attorney that "[a] lawyer should avoid even the appearance of professional impropriety" which is stated in the Rule's Preamble.

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.