
E-80-7 Spouse on Village Board

Question

May an attorney properly serve as village attorney, if the attorney's spouse is a member of the board, which possesses the power of appointment to and removal from office?

Opinion

In responding to the question, the committee would assume that the village board would be apprised of the fact that the attorney to be appointed is the spouse of one member of the board.

In the committee's opinion, the foregoing situation is covered by the following Supreme Court rules:

SCR 20.23 (former Canon 5) "A lawyer should exercise independent professional judgement on behalf of a client" and several ethical considerations thereafter stated.

SCR 20.24 (former DR 5-101) "Refusing an employment when the interests of the lawyer may impair his or her professional judgement. (1) "Except with the consent of the client after full disclosure, a lawyer may not accept employment if the exercise of his or her professional judgement on behalf of the client will be or reasonably may be affected by his or her own financial, business, property or personal interests."

SCR 20.48 (former Canon 9) "A lawyer should avoid even the appearance of professional impropriety."

Assuming that the village board has been apprised of the relationship, and after such full disclosure, the board elects the attorney to the office of village attorney, the committee finds no impropriety in the attorney accepting that office, providing that the performance of the attorney's duties will in no manner be improperly affected by the fact that his or her spouse is a member of the village's governing body.