E-86-12 Lawyer holding legislative office representing persons in proceedings in which employees of the same governmental unit testify

Question

May a lawyer-county board member or state legislator represent persons in Chapter 48 (Children’s Code) and Chapter 49 (Public Assistance) proceedings in which employees of the same governmental unit testify?

Opinion

Provided that a lawyer-legislator or lawyer-county board member abstains from participating in or otherwise attempting to influence legislative actions specifically and directly affecting such employees individually (e.g., establishment of salary or conduct of a personnel action), the Professional Ethics Committee believes that no basis exists for a per se prohibition against such representation. See, e.g., State Bar Formal Ethics Opinion E-75-25, 57 Wis. Bar Bull. 54-55 (June 1984); and, in accord, Gomez v. Superior Court, 149 Ariz. 223, 717 P.2d 902 (1986).

However, the committee would remind such lawyers of the prohibition against using a public position to gain an advantage for him or herself or a client. SCR 20.46(2), SCR 20.48(4) and SCR 20.49(3).