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## **Wisconsin Memorandum Ethics Opinion 2/67 A Conflict of interest: Accident Case**

*Revised June 25, 2020*

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**Question: May a partner or associate of a lawyer who is a member of a local school board represent minor passengers injured while riding a school bus, when it is contemplated that the resulting legal claim shall be made against the liability insurer for the contracting school bus company, and not against the school board or district?**

**Answer:** When lawyers are associated in a firm, most concurrent and former client conflicts of each lawyer are imputed to every other lawyer in the firm. SCR 20:1.10(a). Therefore, any conflict analysis on these facts must be conducted as if the lawyer who was a member of the school board was considering undertaking the representation.

The partner or associate of a lawyer who is a member of a local school board may represent the minor passengers injured while riding in the school bus without a conflict only if the school board or district is not involved in the case (in the above scenario there is no guarantee that either or both would not be impleaded into the litigation by the liability insurer for the contracting school bus company and/or by the contracting school bus company) and if (1) the lawyer-partner or associate of a lawyer reasonably believed they could provide adequate representation without bringing a claim against the school board or district, or their insurer, and (2) obtained informed consent in a signed writing from the legal guardians of his minor clients – neither of which seem likely or realistic in the above scenario. SCR 20:1.7(a)(2), (b)(1) and (4).

If it was reasonably foreseeable that the school board or district would be impleaded, or a viable cause of action existed against the school board or district, there would be a significant risk that the partner or associate would be materially limited by the school board member's duties to the district and, as such, there would be a conflict under SCR 20:1.7(a)(2) and (b)(1).