

Committee Opinion
June 19, 1985

LEGAL ETHICS OPINION 633

CONFLICT OF INTEREST – PART-TIME
COMMONWEALTH’S ATTORNEYS –
SUBSTITUTE JUDGES – LEGISLATORS
– “DUE PROCESS” HEARINGS – STATE
LICENSING AGENCIES – PRIVATE
PRACTICE.

It is not improper for a part-time commonwealth's attorney to represent either parents or school boards as part of his or her private practice so long as the part-time commonwealth's attorney has no contact with or responsibility for any commonwealth cases involving either the parents or the school board, and so long as there is no reasonable basis for inference of the exploitation of the prestige of the attorney's public office or of a conflict of interest between the public duties of the part-time commonwealth's attorney and the attorney's duties in private practice.

It is not improper for a substitute judge to represent either parents or school boards as part of the judge's private law practice even in the jurisdiction where the judge serves as a substitute judge; provided, however, that the judge can avoid even the appearance of impropriety which is prohibited by the provisions of Canon 2 of § 3 of the Canons of Judicial Conduct and DR:9-101 of the Virginia Code of Professional Responsibility. Further, the substitute judge in those circumstances also should keep in mind DR:8-101(A)(2) and (3).

It is not improper for attorneys/legislators to represent either parents or school boards in "due process" hearings or to represent clients before state licensing agencies so long as the attorney/legislator can exercise independent professional judgment unaffected by financial, business, property or personal interests or so long as the client consents to the representation after full and adequate disclosure by the attorney/legislator of any of these interests which might create a potential conflict of interest between the attorney and the client. [DR:5-101]

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