

Committee Opinion
October 12, 1987

LEGAL ETHICS OPINION 981

HEARING OFFICER – CONFLICT OF
INTEREST.

You advise that you are an attorney in private practice and that 60% of your practice is the representation of parents and children in special education administrative hearings against local school divisions in Virginia. You have asked to be added to the list of hearing officers that the Supreme Court maintains. Your inquiry is whether or not you may be on the Supreme Court's list of hearing officers for special education cases and also serve as a hearing officer while still continuing to represent parents and children in special education cases before other hearing officers.

LE Op. 847 is dispositive of your inquiry. That opinion states in pertinent part, "it would be improper for an attorney to represent a client against a state agency in a lawsuit or administrative hearing where the attorney is currently serving as part-time hearing officer."

LE Op. 847 also affirmed LE Op. 632, which states, "it is improper for an attorney on the list of state agency hearing officers maintained by the executive secretary of the Supreme Court of Virginia to represent a client before a state agency in a proceeding which involves the same subject matter as that which the attorney considers when serving as a hearing officer for the said state agency."

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