

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

These provisions lead to the conclusion that for a lawyer to accept compensation from a client who has previously sought uncompensated public assistance from that same lawyer would clearly undermine confidence in the integrity of the profession. The public might get the impression that the office of the public defender is being used for the personal advantage of the members of the public defender's staff.

The suggested safeguards do not dispel this impression. In fact, the need to take extraordinary precautions might emphasize the appearance of impropriety that the conduct described in the letter of inquiry is ethically improper under the existing Canons.

DR 2-104(A) is not inconsistent with this opinion. It provides in part:

"A lawyer who has given unsolicited advice to a layman that he should obtain counsel or take legal action shall not accept employment resulting from that advice, except that:

- (2) A lawyer may accept employment that results from his participation in activities designed to educate laymen to recognize legal problems, to make intelligent selection of counsel, or to utilize available legal services if such activities are conducted or sponsored by any of the offices or organizations enumerated in DR 2-103(D)(1) through (5) and to the extent and under the conditions prescribed therein.
- (3) A lawyer who is furnished or paid by any of the offices or organizations enumerated in DR 2-103(D)(1), (2), or (5) may represent a member or beneficiary thereof, to the extent and under the conditions prescribed therein."

Both of the foregoing disciplinary rules refer back to DR 2-103 (D)(1), which mentions by name a "public defender office".

The above exceptions are not controlling. The former permits the acceptance of employment where the attorney is involved in the educational aspects of a public defender's office and the latter permits a compensated public defender to act as a public defender.

Opinion #166 - 11/6/70 (43-70)

Topic: Advertising;
Office Signs.

Digest: A dignified certificate stating attorney is approved agent of Title Company may not be displayed in office.

Code*: DR 2-101 and DR 2-102.

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QUESTION

May an attorney display a certificate in his office certifying that he is an approved attorney or agent of a title insurance company?

OPINION

Display of a certificate, certifying an attorney as approved or as an agent of a title company or any other commercial organization would be improper even though the certificate appears in the lawyer's office only. ABA Inf. 716 (1963); ABA 304 (1962). Such certificates appear to be endorsements and their display is improper self laudation and undignified. They are distinguishable from certificates of honor or from certificates of membership in bar associations and similar organizations.

Opinion #167 - 11/6/70 (44-70) Topic: Professional Impropriety;
District Attorneys.

Digest: Ethically improper for
District Attorney's office
to sponsor a golf and dinner
outing for judges and lawmen.

Code*: Canon 9
EC 9-1, EC 7-35, EC 7-36,
EC 7-34

QUESTION

The District Attorney's Office of a metropolitan county sponsors annually a golf and dinner outing solely for area judges and lawmen. The event received publicity in a newspaper of general circulation in the area. The County Bar Association has inquired whether said activity is in violation of the Canons of Ethics.

OPINION

It is ethically improper for a District Attorney's office to sponsor a golf and dinner outing solely for judges and lawmen.

Lawyers should avoid even the appearance of professional impropriety. The public must have faith that justice can be obtained through our legal system. Lawyers should promote public confidence in our system. Canon 9, EC 9-1.

All litigants and lawyers should have access to tribunals on an equal basis. EC 7-35. A lawyer should not lend himself to private importunities with a judge. EC 7-36. A lawyer should avoid any other conduct calculated to gain special consideration.

Canon 3 provides in part: "marked attention and unusual hospitality on the part of a lawyer to a judge, uncalled for by the personal relations of the parties, subject both the judge and the lawyer to misconstructions of motive and should be avoided".