



Committee on Professional Ethics

Opinion #386 - 4/24/75 (25-75)

Topic: Part-time secretarial employee

Digest: Lawyer may not employ a secretary seeking part-time employment if she continues her present employment at another law office with which it has adversarial matters.

Code: DR 4-101(D)
EC 4-2; Canon 9

QUESTION

May a lawyer employ a secretary on a part-time basis if she continues her prior employment at another law office with which he has periodic adversarial contact?

OPINION

A lawyer, before employing a part-time secretary, must make reasonable inquiry about her character, experience and present employment among other relevant factors to ensure that the confidences and secrets of his clients will be preserved.

DR 4-101 (D) provides:

"A lawyer shall exercise reasonable care to prevent his employees, associates, and others whose services are utilized by him from disclosing or using confidences or secrets of a client...."

EC 4-2 provides:

"....It is a matter of common knowledge that the normal operation of a law office exposes confidential professional information to non-lawyer employees of the office, particularly secretaries and those having access to the files; and this obligates a lawyer to exercise care in selecting and training his employees so that the sanctity of all confidences and secrets of his clients may be preserved...."

If a lawyer knows or has reason to suspect that confidential information is being leaked from his office, he is obliged to correct the situation immediately. To avoid the possible appearance of impropriety in contravention of Canon 9, it is impermissible to allow a situation to exist where the leaking of confidential information may be foreseeable, cf. ABA Inf. 692. Accordingly, it is improper for a lawyer to employ a part-time secretary if he knows she will continue her employment at another law office with which he has periodic adversarial contact.
