

ADVISORY OPINION NO. 89-9
Nebraska Judiciary Ethics Advisory Committee

FACTS

The daughter of a judge who is attending law school will be doing pro bono work at a legal aid agency in the judge's district. She will be involved in legal research on social security matters, on modifications on support cases and on other general litigation.

The judge asked the question, whether or not this would preclude him from handling cases in which this legal aid agency is involved.

APPLICABLE CANONS:

Canon 1 provides that "a judge should uphold the integrity and independence of the judiciary."

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing, and should himself observe high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

Canon 2 provides that "a judge should avoid impropriety and the appearance of impropriety in all his or her activities."

2A. A judge should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

2B. A judge should not allow family, social or other relationships to influence his or her judicial conduct or judgment. A judge should not lend the prestige of his or her office to advance the private interest of others; nor should a judge convey or permit others to convey the impression that they are in a special position to influence the judge. . .

Canon 3 provides that "a judge should perform the duties of the office impartially and diligently."

3C(1)A judge should disqualify himself or herself in a proceeding in which his or her impartiality might reasonably be questioned. . .

OPINION

It is the opinion of the Committee that perhaps there would be an appearance of the impropriety or perhaps the judge's impartiality would be questioned if he heard cases in which his daughter conducted research. It would be a rather simply matter to determine what cases his daughter was involved with and reclude himself in these cases.

It does not appear that anything in the Canons of Judicial Ethics would prohibit the judge from hearing other cases presented by this legal agency, as the judge's daughter is neither a lawyer nor will she have any financial interest in the outcome of these cases. This of course distinguishes this situation from that in Opinion 89-3 issued by this Committee.

CONCLUSION

The judge should reclude himself from cases on which his daughter conducted research.

August 17, 1989

FOR THE COMMITTEE

William J. Blue
District Judge