

Required Section 2

Conflicts of Interest

Discuss ethical issues that arise with some regularity in the practice setting. Discuss ways to resolve the issues, referring to experience, as well as the Rules of Professional Conduct. Review and discuss the importance of and methods used to screen for potential conflicts. Discuss the differences between issue conflicts and client conflicts.

General Mentoring Tips:

- Review the Conflict of Interest Rules. Rules of Prof. Cond. Rules 1.7 – 1.8.
- If the new lawyer is a government employee (or has been in the past), discuss Rule 1.11.
- If the new lawyer served as a law clerk to a judge or other adjudicative officer, discuss Rule 1.12.
- Discuss the importance of adequately screening for conflicts of interest.
- INSIDE MENTORING: Discuss the firm's procedure for screening for conflicts.
- OUTSIDE MENTORING: Describe the mentor's office procedure for screening for conflicts.
- Discuss different types of conflicts of interest that can arise, particularly in the new lawyer's practice area(s) or office setting.
- Discuss examples of conflicts which can be waived with informed consent. Discuss the procedure for and documents utilized to document your clients' consent to conflicts.

Conflicts and Prospective and Declined Clients:

- Explain the importance of including prospective clients and declined clients in a conflicts database.
- Are these clients treated like former clients in terms of conflicts?
- What does it mean if another client comes along with an interest adverse to the prospective client that never hired the lawyer?
- Discuss the obligations you have to a potential client (even when you do not take his or her case) regarding conflicts of interest.

Changing Firms

- Discuss how conflicts are handled when a lawyer changes firms. Should a lawyer be concerned about the same issues when hiring non-lawyer personnel who come from another firm?

Spouses, Relatives and Close Relations

- Discuss the propriety of working on a case where opposing counsel is a spouse, close relative, or any person with whom the lawyer shares a close personal relationship. Does client consent cure the potential problem?

Sharing Office Space

- Many new lawyers, in an attempt to save overhead expenses, consider sharing office space with other lawyers. If your new lawyer is sharing office space, discuss the practical issues that must be resolved when sharing office space with lawyers not in the same firm.