



# Don't Overlook Training For Conflicts Of Interest

By Eric Mosca  
Director of Operations, InOutsource

As outlined by the American Bar Association Model Rules of Professional Conduct, attorneys have a host of duties related to avoiding conflicts of interest. Yet, this important area doesn't get a lot of attention in law schools, from professional organizations, or during internal firm training sessions.

Raising the profile of conflicts of interest review and clearance is one of the most important things that a law firm can do to reduce risk. The collective effort and attention of resources across the organization makes this process more effective and efficient. The responsibility to understand and address potential conflicts of interest is something that all law firm employees face.

The impact of an unidentified conflict of interest can be significant for a law firm in many ways. Direct consequences can be felt if the law firm is unable to pursue a particular matter when a conflict of interest is discovered. Depending upon when conflicts are discovered and their severity, consequences can include lost or repaid legal fees and even disbarment.

Mishandling a potential conflict can result in losing a client that might have been retained with proper care. If a conflict of interest issue gains significant media attention, even greater damage can occur to a lawyer or law firm's reputation.

## Models of Review and Clearance

In many firms, the task of conflicts analysis and clearance is handled by administrative resources. The decision to invest administrative resources in conflicts of interest analysis likely comes from the clerical nature of this work as operations first were being developed.

After conflicts of interest checking left the dark ages of hollering down the hallway to your colleagues, the process involved catalogs of physical cards, and later, relational databases, to manage the complex interplay of clients, matters and parties.

Some law firms still deploy clerical resources with little understanding of the Rules of Professional Conduct to search for conflicts of interest. The results are then likely returned to the requesting lawyer for their analysis.

The more mature model deployed by many firms today is to complete as much, or all, of the analysis on the lawyers' behalf, removing the lawyer looking to take on new business from the process.

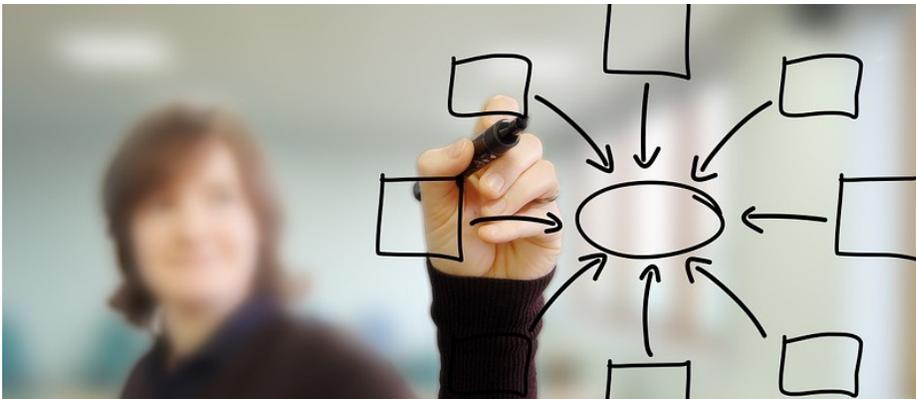
collection and managing the clearance process can be addressed by a wide range of roles such as legal assistants, paralegals, associates, and New Business Intake Department team members.

Continuing education for these resources will help them stay informed about the importance of this topic and keep their skills sharp.

Much as law firms have come to understand the need for regular training on human resources and security issues, regular conflicts of interest training is not something that can happen just during a new hire's first week.

## Risk Management Resources

Involve the risk management resources of your firm to identify the areas requiring the most attention. The geographical focus of your firm, practice areas serviced, and past track record of your lawyers and staff differ widely, and have much to do with the training needs of your organization. Involving outside consultants can be a good way to evaluate the current operations against the state



Details of the situation, like the experience of the attorneys involved, the temperament of the clients, and the facts of the potential underlying conflict, will likely influence the resources involved in attempting resolution.

No matter which model of review and clearance your law firm subscribes to, there is a benefit to training and reminding staff of their obligations. Aspects of information

of the art and peer firms.

These outside consultants may also be more effective in conducting the resulting training for your lawyers and staff. A seasoned training resource should be attuned to the nuances of each constituent group that might benefit from conflict of interest training.

## Training for Lawyers

Many lawyers have gone through a single semester of legal ethics, at most. They may have very little real-world exposure to the complexities of conflicts of interest. Despite this, most lawyers will have a strong understanding of the underlying rules of professional responsibility.

Leveraging the definitions of these rules to review common scenarios and create dialogue on the best methods to resolve conflicts will bring value for working lawyers. Lawyer training must be brief, typically no longer than one hour, and training that offers an opportunity for CLE credits will typically be better attended.

## Training for Risk Management Teams

The members of your firm's Risk Management or Conflicts Department present a unique training opportunity. There are very few chances for networking and professional development available to resources working in new business intake operations. These resources will typically enjoy the opportunity to explore their craft and gain insight into possible departmental improvements.

