



# State of Tennessee Office of the Attorney General

## Disclosures of Conflicts and Personal Interests

### General Guidelines

1. Loyalty and independent judgment are essential elements in an attorney's relationship with a client.
2. Personal interests of an attorney that are inconsistent with those of a client might substantially limit the attorney's ability to pursue the client's interest.
3. An attorney's personal interests should not adversely affect the representation of a client.
4. When an attorney suspects he or she may have a personal interest in the representation of a client that would violate Tennessee Rule of Professional Conduct 1.7(a)(2), the attorney shall consult with his or her Deputy.

All employees of the Office continue to be responsible 1) for disclosing certain information known to them that may be relevant to a lawyer's compliance with professional ethical obligations under the Rules of Professional Conduct and/or relevant to the determination of the propriety or prudence of any employee's working on any particular case or other matter, and 2) for reasonably cooperating with and assisting each other in fulfilling this responsibility. Generally, an employee should make a disclosure before participating or continuing to participate in any matter in which the employee's ability to comply with the applicable ethical rules or to fulfill the duties to the client and this Office reasonably could be questioned. Following a relevant disclosure, any required or appropriate action will be identified and implemented at the Deputy level or above.

The type of information that should be disclosed and discussed includes:

### Personal and Financial Interests

- The employee has a financial interest in the matter;
- The employee is a party or represents a party in the matter;
- The employee's spouse, parent or child is a party, represents a party, or has a financial interest in the matter;
- Another close relative or a close friend or a former employer is a party, represents a party, or has a financial interest in the matter;
- A present employer or a prospective employer with whom employee's spouse, parent or child is seeking employment is a party, represents a party, or has a financial interest in the matter;



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- A person or entity with whom the employee, spouse, parent or child has or is seeking a business or contractual relationship is a party, represents a party, or has a financial interest in the matter;
- Any entity or person for which the employee serves or recently has served as an officer, director, trustee, general partner, or employee is a party, represents a party, or has a financial interest in the matter;
- The employee has some other personal interest that might negatively impact the employee's work on the matter;
- An attorney is referring or has referred clients to a business or enterprise in which the attorney has an undisclosed financial interest;
- An attorney has an interest in the subject of the representation arising out of a family relationship or other close personal relationship; and
- The attorney is seeking or intends to seek a romantic relationship with a client, an opposing party, or opposing counsel.

### Current and Former Attorney Client Relationships

- A possibility exists that the representation of one client could be directly adverse to the interests of another client;
- A risk exists that the representation of one or more clients could be limited or adversely impacted by a lawyer's responsibilities to another client, a former client, or a third person;
- The matter is one in which the attorney's former clients participated as parties;
- The matter is one in which the employee participated personally or the matter is substantially related to another matter in which the employee participated personally while in nongovernmental employment;
- The matter is one in which the attorney or employee previously represented or worked with counsel for one of the parties;
- The attorney has information relating to the representation of a client that could be used to the disadvantage of the client; and
- The attorney is seeking employment with an opposing party or a law firm representing one of the parties.

Disclosures are to be made promptly, either before or as a matter is being assigned or as soon thereafter when the information or circumstances to be disclosed become known to the employee.



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Disclosures are made to the Division Deputy or to the employee's immediate supervisor. When a disclosure is made to a supervisor other than the Deputy, that supervisor shall report the disclosure to the Division Deputy or to the Chief Deputy.

In consultation with the employee and with reference to the Tennessee Rules of Professional Conduct, Tenn. Sup. Ct. R. 8 ("RPC"), including but not limited to RPC 1.7, 1.9, 1.10, and 1.11(d) and (e), and other applicable laws, regulations, standards of conduct, conflict of interest policies, and guidelines, the Deputy (Senior Deputy or Chief Deputy) will determine whether and under what conditions, if any, the employee may continue to work on the matter. During this process, the Deputy or employee may request additional consultation with the Senior Deputy, the Chief Deputy, and/or the Ethics Committee.

If a relevant disclosure has been made and it is determined that the employee shall not work on a matter and, in addition, the circumstances require notices, screening, or other precautionary measures to protect the interests of the Office, the client, and the employee and/or to comply with professional obligations, the Deputy shall prepare and disseminate appropriate memoranda, notices, and written directives to all personnel and files as necessary.

If a relevant disclosure has been made and it is determined that the employee may continue to work on a matter, the Deputy shall prepare and disseminate appropriate memoranda, notices, and written directives to all personnel and files as necessary concerning the determination and outlining any necessary conditions or guidance relating to the employee's work on the matter.