

You Cant's Tweet That!
Identifying Conflicts of Interest
September 10, 2014

David Schultz, Hamline University
651.523.2858
dschultz@hamline.edu

Identifying Conflicts of Interest

Can you write a daring tell-all book, blog, or Twitter feed about the inside story of your workplace? Can you moonlight after work, or accept gifts from clients? Are conflicts of interest only financial, personal, or can they be something even broader? Conflicts of interest are a major issue in the public sector. Learn how to identify what is a conflict of interest, how the meaning of this ethical concern is changing, and what strategies to take to avoid or eliminate them.

Goals

- * Define what a conflict of interest is.
- * Identify potential conflicts of interest
- * Discuss how the meaning of conflict of interest has changed
- * Develop strategies for avoiding conflicts of interest

Instructor: David Schultz is a Hamline University Professor of Political Science who teaches across a wide-range of American politics classes including public policy and administration, campaigns and elections, and government ethics. David is also professor in the Hamline and University of Minnesota Schools of Law where he teaches election law. David is the author of 28 books and 100+ articles on various aspects of American politics, election law, and the media and politics, and he is regularly interviewed and quoted in the local, national, and international media on these subjects including the *New York Times*, *Wall Street Journal*, *Washington Post*, *the Economist*, and National Public Radio. His most recent books are *Election Law and Democratic Theory* (2014) and *American Politics in the Age of Ignorance: Why Lawmakers Choose Belief Over Research* (2013). A two-time Fulbright scholar who has taught extensively in Europe, Professor Schultz is the 2013 Leslie A. Whittington national award winner for excellence in public affairs teaching.

1. Introduction

- a. Discuss conflicts of interest
 - i. What is a conflict of interest
 - ii. Why worry about them
 - iii. How should we address them

2. What is a Conflict of Interest?

- a. Classic definitions
 - i. Abuse of official position for personal financial advantage (pecuniary advantage)
 - ii. Abuse of information
 - iii. Special privileges
 - iv. Personal and work life come into conflict

3. Our Conflicted Lives

- a. Why do we have conflicts (and can't we get rid of them)?
- b. The story of Antigone
- c. The multiple roles we live at work
- d. The problem of conflict of interest
 - i. Conflicting roles
 - ii. Conflicting duties

4. Private Sector Parallels

- a. Insider trading
 - i. *Texas Gulf Sulphur*
 - (1) Cannot trade on information until it becomes public
 - ii. Who are insiders?
 - (1) Corporate executives
 - (2) Applies to some outsiders
 - (a) printers who reproduced materials?
 - (3) Those who have legal duties to others
 - iii. Why should they not be able to trade stock except under certain circumstances?
 - iv. Insider trading and the public sector
 - (1) Is there a parallel?

5. Types of Conflict of Interest

- a. Actual v. potential conflicts
- b. Personal v. impersonal conflicts
 - i. You represent two conflicting interests
 - ii. My interest conflicts with another
- c. Individual v. organizational conflict
 - i. Organizations having interests in another
 - (1) Auditors holding stock in clients they audit
- d. Five kinds of conflict of interest
 - i. Biased judgment
 - ii. Direct competition
 - iii. Misuse of position
 - iv. Violation of confidentiality

- v. Gifts (see below)
- e. Insider Trading and Wall Street
 - i. What is insider trading and why is it wrong?

6. Changing Notions of Conflict of Interest

- a. The expansion of the conflict of interest
- b. Conflicts of responsibility
 - i. Role conflicts?
 - ii. Personal, professional, and public roles?
- c. New Issues
 - i. Is it only financial?
 - ii. Is it only legalistic?
 - iii. Is it appearance?
 - iv. Is it ideology?
 - v. Can conflicts be conflicting loyalties?
 - (1) Self, citizen, family?
 - (2) Religion?
- d. The problem of appearance in the public sector

7. Gifts and Conflicts of Interest

- a. The Problem of gifts
 - i. Gifts in private life
 - ii. Private virtue/public problem
 - iii. No such thing as a free lunch
- b. Gifts and appearances
 - i. Gifts and the Santa Claus problem
 - ii. Gifting across professions
 - (1) (See attached article)
 - iii. When are gifts permitted?
 - (1) Should nominal value be permitted?
 - (2) Should gifts be permitted if there are ongoing friendships?

8. How to Identify Conflicts of Interest

- a. Is self-policing enough?
 - i. The problem of biased judgment
 - ii. Checklist
 - (1) Use of special information?
 - (2) Personal profit (beyond salary)
 - (3) Compete with the County?
 - (4) How would it look on the 10 PM news (appearance)
- b. Conflict of Interest policies
 - i. What policies cover your position/jurisdiction?

9. How to Avoid Conflicts of Interest
 - a. Follow applicable policies
 - b. Disclosure
 - c. Ask how it would look on the 10 PM news or would you mother approve?
 - d. Seek advise from supervisor, HR, or ethics officer
 - e. If in doubt, don't do it!!!

10. **Conclusion**
 - a. Why we should care about conflicts of interest
 - b. Can we get ride of them or learn to live with them?

Problems

Is it illegal to gossip or talk about your neighbors? Is it illegal or unethical to talk to your partner about what kind of day you had at work?

Just for curiosity, you do a court records search on the candidates running for governor in Minnesota in 2014. Is that ok?

You work as a supervisor for a local country social service agency. You learn that your next door neighbors have sold their house. On break you use your office computer to access their records. Later after work you go home and tell your partner about what you learned. Assess.

You attend a training session hosted by a software vendor providing services to your department. At the end of a training session the vendor distributes coffee mugs and note pads with its name to all the workshop participants as a thank you for attending. Can you accept the mugs and pads?

Members of office are attend a training session that is attended by employees from several other workplaces, counties, and other public and private employers. Everyone who attends is invited to drop a business card into a bowl for a drawing for dinner for two at the St. Paul Grille. Can you accept the gift? Should you even put your card in the bowl? What if the organizer of the training session had a contract with your agency to provide services?

The daughter of one of your friends is arrested and convicted for DUI in your county. Your friend calls you to ask for some information about the conviction. Can you provide it? Would it make a difference if the daughter were under the age of 18? Eighteen or older?

Evaluate these relationships

A 30 year old employee asks a 21 year old intern out on a date.

An employee waits until an offender is off probation and then asks her out on a date.

An employee waits until an offender is off probation for a year and then asks her out for date.

An employee asks the sister of an offender out on a date while the latter is still under supervision..

You are a public employee and working with a vendor who owns a business. While talking to him he tells you about several job openings at his company. Can you apply for these jobs?

You decide to write a daring, tell-all book about your work. The title is: *Supervise This! The Real Story of County Government*. Can you write this book? Should you? What if all of the information in the book is public information? Would it matter that instead of writing a book you posted this information on your blog? Or how about on a friends-only Facebook page that is not public?

Is it a conflict of interest to:

- * Supervise a family member or friend?
- * Have a family member or friend work in your company or business?
- * To supervise someone you are dating?
- * Accept a give from a constituent or lobbyist in gratitude for the help you gave?
- * Accept a gift from a vendor for doing business with them?
- * Write a book based upon your work experiences?
- * Speculate on land purchases based upon your knowledge of a pending public project?
- * Vote on, or participate in decision in which you held a financial interest? Assume also that others also hold a similar financial interest as members of a group. What if:
- * Psychically or emotionally gain satisfaction from a decision?
- * If you lost money as a result of a decision?

Does your answer differ to the above if you are an elected or appointed official or civil service?

Is it a conflict of interest to

- * Take a job with a former vendor of your local government after you leave public employment?
- * Start your own side business doing the books for another local government? For businesses in your jurisdiction? For other public officials?
- * Buy stock in a paper mill company when you work for the Department of Natural Resources and know that the state will be giving the company a contract to clear dead timber from state forests.