



**Monthly Report to Board of Directors  
Office of Ethics  
April 2014**

# ***ETHICS IN THE PIPELINE***

THEME  
OF THE  
MONTH

## ***WHAT DOES 'CONFLICT OF INTEREST' REALLY MEAN?***

*Conflict of interest* is a common term, sometimes raising negative connotations. We know it is

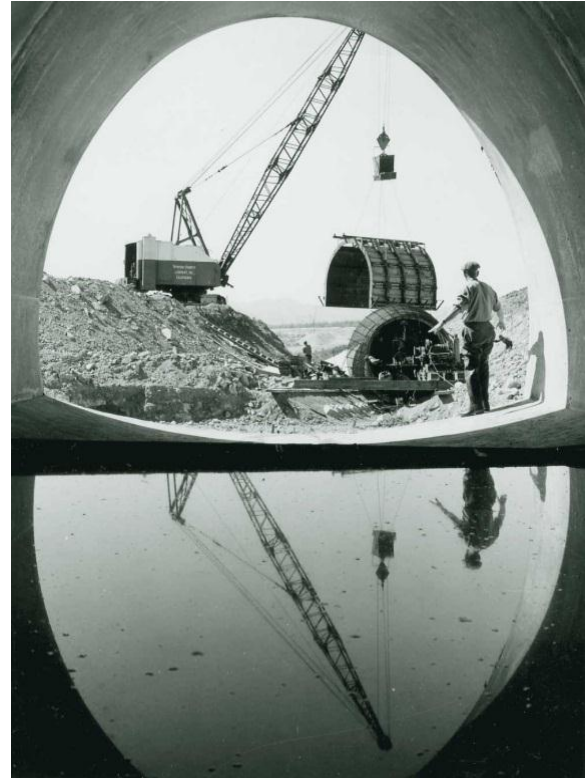
something to avoid, but what is its meaning exactly? Is it simply a matter of divided loyalties?

The lifetime UCLA fan who takes a job as a professor at USC may forever root for the Bruins against the Trojans, yet we would not say she has a conflict of interest that disqualifies her from the USC job. On a personal level, she may be loyal to her alma mater; but people in our society routinely move between positions and institutions, and we assume that they can be conscientious and professional regardless of past affiliations.

Say that same professor espouses a certain academic theory not shared by her colleagues in her department, and she has dedicated her professional life to proving it. Is this professor able to fairly evaluate students' work with opposing views? Can she fairly chair a department staffed with scholars from different schools of thought?

The situation raises the prospect of a conflict of interest routed in bias. The professor has a duty to grade fairly, treat her colleagues with respect and perhaps promote academic freedom, but she is not disqualified from any of these activities based solely on her philosophical perspective.

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In a government setting, the term *conflict of interest* as it is most commonly used in codes of conduct or ethics, is a term of art referencing instances that arise either: (i) when a public official uses government power or authority expressly for obtaining some private advantage; or (ii) when government duties and private financial interests intersect. For the latter, merely acting on a matter involving a public official's financial interest – even if that official acts *against* that interest – may trigger conflicts prohibitions.

Thus, Metropolitan Administrative Code section 7104 prohibits using government position or authority to obtain an improper private benefit, and Administrative Code section 7107 similarly prohibits misuse of confidential information. Both rules address intentional efforts to gain private advantages not naturally arising from one's official position.

In contrast, Administrative Code section 7105 prohibits directors, officials, and other Metropolitan employees from participating in Metropolitan decisions if they

have a financial interest in the outcome of the decision, regardless of intent.

Conflicts of interest questions can be difficult to analyze. The answer may turn on a technical assessment of an outside source of income, an investment, or some other asset to see how closely the public official's interests intersect with his or her governmental authority.

Metropolitan's Ethics Office is always available to help decide when a conflict of interest might exist under our internal ethics rules. The Office of the General Counsel provides advice regarding conflict-related state laws. Finally, the Fair Political Practices Commission (FPPC) maintains a helpline, answers questions by email, and posts helpful FAQs and other information to help public officials with these difficult issues. (FPPC toll-free advice line: 866-275-3772; [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov); [www.fppc.ca.gov](http://www.fppc.ca.gov)).

## ***MONTHLY ACTIVITIES***

In April 2014, the Ethics Office:

- Presented its quarterly report and business plan at the Audit and Ethics Committee meeting on April 22, 2014.
- Briefed one new director.
- Conducted orientations for eight new employees.
- Conducted training at Soto Street for 35 employees and managers on April 10, 2014.
- Received 975 hits on its website.

## ***ADVICE***

Notable advice questions answered by the Ethics Office in April 2014:

### ***GIFTS FROM VENDORS***

A prospective vendor approaches a manager and offers a complimentary meal to the manager and his employees to promote his business. Should the manager accept? In any procurement process, Metropolitan staff must

follow consistent and transparent procedures to avoid treating any one prospective vendor differently than another. Metropolitan's internal regulations prohibit accepting gifts "for any action related to the conduct of Metropolitan's business." (Administrative Code section 7130). Accepting free services and gifts from vendors raise concerns, because they may raise the perception that the public employee recipients can no longer maintain objectivity when dealing with matters affecting the donor. This principle is central to the integrity of official processes and decision-making in government.

Vendors have offered complimentary luncheons to advance marketing opportunities with officers or employees who might influence procurement decisions in the future. Should the employee accept? In this situation, the Metropolitan employee does not oversee the contract; the subject matter is outside the area of the Metropolitan employee's responsibilities; there are no pending procurements involving bids or proposals from this vendor; the employee is not involved in any pending procurement decisions involving this vendor; and the employee is not likely to be involved in future procurements in the employee's current position.

Based on the above, the employee may accept the gift of food and beverage at this event. However, the employee must report the value of the meal as a gift on the employee's Statement of Economic Interests Form (Form 700) if the value is \$50 or more.

An employee attends a conference and wins a raffle prize. Can the employee accept the prize? The employee is a public official for Metropolitan subject to mandatory annual disclosure of financial interests. In determining whether the employee can accept the prize, the key factor is the nature of the contestant pool comprising the drawing. When a contest is open to the public, including both public officials and others, and winners are chosen by chance, the resulting prize is not a "gift". However, it is considered a source of reportable income on the Statement of Economic Interests if its value exceeds \$500 from the same source.

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### ***OUTSIDE ACADEMIC ACTIVITIES***

An employee inquired about how the internal ethics policies on outside academic activities apply to a research project toward a university degree. The Office advised the employee about Operating Policy H-03, which identifies pre-approval steps necessary for any surveys or other written requests for information from Metropolitan directors, officers, or employees to be used

for academic purposes. The basic requirement is to obtain review and concurrence from the relevant supervisor and the Ethics Office of any written surveys or questionnaires directed at Metropolitan officials.

It is important to note that public employees have free-speech rights in their intellectual and academic works. Operating Policy H-03 is not intended to restrict substantive content or opinions expressed in outside academic work.



Specific Matters Submitted FY 2013-14

	Jul 2013	Aug 2013	Sept 2013	Oct 2013	Nov 2013	Dec 2013	Jan 2014	Feb 2014	Mar 2014	Apr 2014	F/Y 13/14
Ethics Complaints											
Conflict of Interest											
Customer Relations			1				2	1			4
Discrimination	1			1							2
Employee Relations	1	2	1(2P)			1	1		2		10
Falsification of Records											
Favoritism			1P				1				2
Misuse of MWD Resources		1	1P	1(1P)		1					5
Misuse of Position	1			1P	1						3
Nepotism											
Policy Issues			1				1			1P	3
Product Quality Concerns											
Retaliation						1					1
Safety											
Sexual Harassment		2									2
Theft of Time				1						1	2
Theft of Goods				1P							1
Wage/Hour											
<b>Total Complaints</b>	<b>3</b>	<b>5</b>	<b>7</b>	<b>6</b>	<b>1</b>	<b>3</b>	<b>5</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>35</b>
Ethics Advice											
Conflicts of Interest	2		3	1	1	1		11			19
Contractor Relations											
Customer Relations		2					1				3
Employee Relations											
Gifts	2				1	2		3	3	3	14
Honorarium											
Misuse of MWD Funds											
Misuse of MWD Resources											
Nepotism							1				1
Outside Employment											
Policy Issues				1	1	1				2	5
Theft of Time											
<b>Total Questions</b>	<b>4</b>	<b>2</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>2</b>	<b>14</b>	<b>3</b>	<b>5</b>	<b>42</b>
<b>Total: Complaints &amp; Questions:</b>	<b>7</b>	<b>7</b>	<b>10</b>	<b>8</b>	<b>4</b>	<b>7</b>	<b>7</b>	<b>15</b>	<b>5</b>	<b>7</b>	<b>77</b>

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