

When Interests Collide: Responding To Conflicts Of Interest In The Workplace



As far as non-human rights matters go, conflicts of interest are a frequent cause of employee complaints. Some employees believe that it is their duty to report what they perceive to be a conflict-of-interest situation. Others may report such a situation when they feel that their own interests have been harmed because of another employee's conflict (e.g., they believe that they lost out on a promotion because it was awarded to a person with whom the hiring manager is in a close relationship).

In simple terms, a conflict of interest occurs when an employee's personal interest conflicts or interferes with their ability to exercise good judgment at work. The following are examples of conflicts of interest (I have identified for each the conflict between the personal interest and the organization's interest):

- A manager hires a close friend: The concern is that the hiring of the friend (the personal interest) clashes with the manager's obligation to find the most qualified candidate for the organization, set a reasonable salary, and manage performance objectively, etc. (the organization's interest).
- A senior employee accepts an out-of-town weekend getaway from one of the organization's vendors: In this case, the receipt of the trip (the personal interest) conflicts with the employee's obligation to retain the most suitable vendor at the best price (the organization's interest). The concern is that the gift may cause the employee to maintain the organization's relationship with the vendor, even when the relationship is no longer in the organization's best interests.
- A sales employee has a "side business" that provides similar services as those provided by their employer: The issue here is that the employee's desire to run their own successful business (the personal interest) conflicts with their obligation to perform their role in a manner that is in the best interest of their employer (the organization's interest). For example, the employee may be tempted to divert sales leads to their own business or use the organization's confidential information to further their own interests.
- An employee is involved in a procurement process in which their spouse is one of the proponents bidding on the work: In this case, the employee's ability to choose a vendor impartially (the organization's interest) is compromised by the employee's loyalty to their spouse and the potential pecuniary advantage of their spouse being selected (the personal interest).
- A manager is in a romantic relationship with a person who they supervise: I dedicated an entire [blog](#) to this last month. Essentially, the romantic

relationship (the personal interest) clashes with the employee's ability to manage in a manner that aligns with the organization's expectations (the organization's interest). For example, the manager's discretion to determine compensation, allocate work fairly amongst team members, etc. is compromised.

Many organizations have a code of conduct and/or organizational values that prohibit conflicts of interest. In the public sector, there may be conflict of interest rules that are set by legislation or regulations. There is also often a duty on employees to report potential or actual conflicts of interest.

It is because of these expectations, and the risks involved in having a conflicted employee, that organizations may decide, even when not legally required to do so, to investigate alleged conflicts of interest.

When investigating these matters, an investigator will need a good plan for how to collect evidence. The level of difficulty involved in identifying and obtaining evidence will depend on the nature of the conflict. In the case of an alleged workplace romantic relationship, for example, both parties who are said to be involved in the relationship are employees of the organization. This means that they will have to participate in the investigation or risk facing consequences. There may also be relevant electronic records in the possession of the organization that can be obtained (e.g., emails, electronic messages, phone records, etc.).

Things get dicier when the alleged conflict involves a personal interest that is external to the organization. Take, for example, an allegation that an employee has a relationship with an external vendor. The vendor is not likely to turn over records or be willing to be interviewed. In such a case, the investigator will have to be creative about how to find evidence to determine whether there is a link between the employee and the vendor. If permitted by the organization's policies, the investigator may seek access to the employee's emails to determine the frequency and nature of their contact with the vendor. The investigator may also dig into how the vendor was selected, the employee's involvement in selecting them, the amount of business given to that vendor, whether competing vendors are being used, etc.

As with all investigations, a thoughtful investigation approach is required when investigating conflicts of interest. The investigator needs to have a good handle on the interests that are said to be in conflict, and how to obtain relevant information regarding those interests.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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