

PROF. COND. R. 1.10 IMPUTATION OF CONFLICTS OF INTEREST: GENERAL RULE

This Rule provides that while lawyers are associated in a firm, none of them shall represent a client when the lawyer knows or reasonably should know that any one of them practicing alone would be prohibited from doing so by Rule 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

The Rule covers the situation when a lawyer is no longer associated with a firm. No lawyer in that firm shall represent a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, if the formerly associated lawyer represented the client in the same or a substantially related matter or any lawyer remaining in the firm has information protected by Rules 1.6 and 1.9(c) that is material to the matter.

The Rule also addresses situations when a lawyer becomes associated with a new firm. If the lawyer associated with a new firm had substantial responsibility in a matter for a former client, no lawyer in the new firm shall knowingly represent, in the same matter, a person whose interests are materially adverse to the interests of the former client.

If the lawyer associated with the new firm does not have substantial responsibility, no lawyer in the new firm shall knowingly represent a person in a matter in which the lawyer is personally disqualified under Rule 1.9 unless timely screening is implemented, and written notice is given as soon as practicable to the affected former client.

Determining application of this Rule and screening procedures can be tricky. If a firm is bringing on a new lawyer, careful checking of potential conflicts is advisable. An Ethics Consult can proactively provide guidance.