

Conflicts of Interest

Module -IV

Conflicts of Interest

- Professional conflicts of interest
 - professionals have an interest that, if pursued, might keep them from meeting their obligations to their employers or clients.
- Conflicts arise when
 - side interest that could threaten good judgment in serving the interests of the employer or client

Conflicts of Interest

What is Conflict of Interest?

Examples:



NEPOTISM

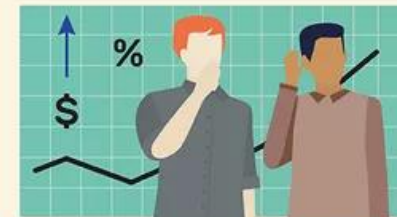
Giving favors to relatives and close friends.



SELF-DEALING

When someone acts in their own interest rather than the interest of the organization.

When it is Illegal:



PUBLIC SECTOR

- Judges must recuse themselves if there is a relationship with one of the parties in a case.
- If the legislator attempts to profit from knowledge, this is an example of insider trading.



PRIVATE BUSINESSES

If a company has proof that a board member profited from their role on the board, the board member can be taken to court.



BOARD MEMBER

Conflicting Interests

- a person has two or more desires that cannot all be satisfied given the circumstances.
- It is **not morally wrong** or problematic to try pursuing them all.

eg: student wants to write 4 exams, but have time to study for only 3

Conflicts of Interest - Types

- Actual Conflict of Interest
 - objectivity is lost in the decision making
 - Inability to discharge duty to the employer

An officer taking money from contractors

- Apparent Conflict of Interest
 - Lose objectivity to achieve your personal interest

showing more cost for work, to get incentive

- Potential Conflict of Interest
 - Favoring your relative , spouse or friend

Conflicts of Interest - Types

- Potential Conflict types

- Favourable contact

eg : An engineer give a contract to a company where his spouse works

- Bribe and Gift

The conflict arises when accepting large gifts from the suppliers

- Moonlighting

- Insider Information

Bribe vs Gift

<i>Tests</i>	<i>Bribe</i>	<i>Gift</i>
1. Timing	Given before	Given after
2. Cost of item	Large amount	Small amount, articles of daily use
3. Quality of product	Poor	Good/High
4. Giver is a friend	Yes	No
5. Transparency	Made in secret	Made in open
6. Motive	Expect undue favor	Expect a favor or thanking for the favor
7. Consequence on organization's goodwill	Damaging the goodwill and reputation	No damage is involved

M Govindarajan, S Natarajan and V S Senthil Kumar, Engineering ethics

Moonlighting

when a person is working as employee for two different companies in the spare time

Effects

- lead to conflict of interests
 - if the person works for competitors, suppliers or customers, while working under an employer
- the person exhausted
 - harms the job performance in both places.

Insider Information

- using *'inside' information* to establish a business venture or get an advantage for oneself or one's family or friends
- information may be either of the parent company or its clients or its business partners

e.g., engineers might inform the decision on the company's merger with another company or acquisition or an innovative strategy adopted

OCCUPATIONAL CRIME

OCCUPATIONAL CRIME

White collar crimes

- wrong actions of a person through one's lawful employment
- crime by an employee to promote ones own or employer's interest
- theft or pilferage by the employee
- Damage to the property

OCCUPATIONAL CRIME

Types

- Price fixing
- Industrial espionage
- Bootlegging
- Endangering lives

OCCUPATIONAL CRIME

Types

- Price fixing
 - Fixing the bidding rate by companies in collusion with other companies

Especially for contract or services

- Industrial espionage

Spying for personal or company benefits

OCCUPATIONAL CRIME

Types

- **Bootlegging**
 - Manufacturing or selling or transporting products that are prohibited by law

Liquor or narcotics

- **Endangering lives**
 - Industries who expose workers to hazards

eg. **Bhopal gas tragedy**

Professional Rights

Human Rights

1. Right to pursue legitimate personal interest
2. Right to make a living
3. Right to privacy
4. Right to property
5. Right of non-discrimination
6. No sexual harassment

Professional Rights

- special rights that arise from their professional role and the obligations it involves.
- Three types
 - right of professional conscience
 - right of conscientious refusal
 - right of professional recognition.

Professional Rights

Right of professional conscience

Right to form and express professional judgment

- Giving engineer the moral authority to act without interference from others.
- Both technical and moral judgments are included.
- bound by the responsibilities to employers and colleagues.

Professional Rights

Right of conscientious refusal

Right to refuse to participate in unethical activities

- employer can not force or threaten the employee to do something that is considered by the employee **as unethical or unacceptable**
- **falsifying data, forging documents**
- **altering test results, lying, giving or taking bribe etc**

Professional Rights

Right of professional recognition

Right to fair recognition and to receive remuneration for professional services

- monetary and non-monetary forms of recognition
- motivate them to concentrate their energy on jobs and to update their knowledge and skills

Employee Rights

Employee Rights

Any rights, moral or legal, that involve the status of being an employee

- 1. Privacy Right**
- 2. Right to Equal Opportunity: Preventing Sexual Harassment**
- 3. Right to Equal Opportunity: Nondiscrimination**
- 4. Right to Equal Opportunity: Affirmative Action**

Employee Rights

Privacy Right

- right to pursue outside activities
- right to have a private life off the job
- the right to control the access to and the use of information about oneself

eg. A supervisor unlocks and searches the desk of an engineer who is away on vacation without the permission of that engineer

Employee Rights

Right to Equal Opportunity: Preventing Sexual Harassment

- a display of arrogance and misuse of power through sexual means
- against the moral autonomy
- an assault on one's human dignity and trust.

Employee Rights

Right to Equal Opportunity — Non-discrimination

Discrimination means a morally unjust treatment of people in the workplace that damages the human dignity.

- Discrimination because of caste, sex, religion, creed, and language are regressive actions.

Prize amounts for the winners in the world sport events are not the same for men and women.

Employee Rights

Right to Equal Opportunity — Affirmative Action or Preferential Treatment

- It means giving a preference or advantage to a person of a group that was denied equal treatment in the past
- Such treatments are given especially to women and minorities
- also called '**reverse preferential treatment**', because it reverses the historical preferences.

Employee Rights

- ***weak form of preferential treatment***
 - consists in hiring a woman or a member of a minority over an equally qualified male.
- ***Strong form of preferential treatment***
 - consists in giving preference to women or minorities over better-qualified males.

IPR Discrimination

Intellectual Property

- Original value for creative ideas
- People have fully dependent ownership for their innovations and creativity

Need for Protection of IP

- prevent using it for financial gain
- prevent plagiarism
- fulfill obligation to funding agency
- provides a strategy to generate steady income.

Challenges

- High cost of patenting and lengthy procedure

Types and Norms

Patents

- Patent is a **contract between the individual (inventor) and the society (all others)**.
- Patents protect legally the specific products from being manufactured or sold by others, without permission of the patent holder.
- The validity is 20 years

Types and Norms

Patents

- Patent is given to a product or a process, provided
 - it is entirely new
 - Involving an inventive method
 - suitable for industrial application.
- Documents for patents
 - the problem addressed
 - its solution
 - extent of novelty
 - Innovation
 - typical applications particulars of the inventor
 - resources utilized.

Types of Patents

- **Utility Patent**
 - Patent for new process, machine, chemical compositions
- **Industrial Design Patent**
 - Idea or conception regarding the shape, configuration, color for its ornamentation, dimension of a product

Types and Norms

Copyright

- **specific and exclusive right**, describing rights given to creators for their literary and artistic works.
- Protects
 - literary material, aesthetic material
 - music, film
 - sound recording
 - broadcasting
 - software, multimedia, paintings, sculptures,
 - drawings including maps, diagrams, engravings or photographs.

Types and Norms

Copyright

Copyright is effective in

(a) preventing others from copying or reproducing or storing the work

(b) publishing and selling the copies

(c) performing the work in public, commercially

(d) to make film

(e) to make translation of the work

Types and Norms

Copyright

Can software be protected through copyright?

Indian copyright Act amended in 1984 included the rights of in a computer program as literary work.

Copyright (Amendment) Act 1999, India ensures fair dealing of broadcasting through the internet.

Trademark

- Trademark is a wide identity of specific good and services, permitting differences to be made among different trades
- It is a territorial right, which needs registration.
- Registration is valid initially for 10 years, and renewable.

Trademark

The trademark or service mark may be registered in the form of

- a device
- a heading
- a label
- a ticket
- a letter
- a word or words, a numeral or any combination of these
- logos, designs, sounds, and symbols.

Trademark should not be mistaken for a design, e.g., the shape of a bottle in which a product is marketed, can not be registered as a trademark.

Trademark

Three functions of trademark

1. Just as we are identified by our names, good are identified by their trademarks.

- For example, the customer goes to the shop and asks for Lux soap. The word 'Lux' is a trade mark

2. The trademark carries with it an inherent indication or impression on the quality of goods

3. The trademark serves as silent sales promoter.

- without a trademark, there can be no advertisement.
- serves as a medium for advertising the goods.

Trade Secrets

- Information which is kept confidential
- Trade secrets are not registered
- Limited legal protection

eg: a formula, process, methods, programs