



12. Avoid or otherwise disclose all potential conflicts of interest

Conflict of interest? Answers not always simple

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ALDE members have signed the Code of Ethical Principles and Practices indicating they "...will avoid or otherwise disclose all potential conflicts of interest." In light of this, the Ethics Committee asks ALDE members, "Do the following situations make you uncomfortable?"

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In preparation for Lutheran Camp's annual fund drive, Dennis, the development officer leading the drive, contacts his cousin who is in the "trash and trinkets" business for prices on donor gifts. The quotes sound reasonable and he places an order.

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Because of his reputation as an effective fund raiser with high ethical standards, Tom, the development officer at Lutheran Retirement Home located in a small Midwestern town, has been asked by a local Lutheran college to volunteer to head up a major capital campaign.

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Over a period of several years of working with a donor, Mary, the development officer at Lutheran High School, has formed a close, personal relationship with the donor. Although Mary agreed to be named as executrix in donor's Last Will and Testament, she was pleasantly surprised to learn upon the donor's death that she was included in the Will and, along with Lutheran High School, will receive a monetary bequest.

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These situations share a common element - a potential conflict of interest. Unlike some professional codes of ethics, the ALDE code does not define "conflicts of interest." There are advantages to this approach. We avoid absolute prohibitions of conduct that might be acceptable in unusual circumstances. We also avoid the implication that certain behavior is acceptable simply because it is not included in a laundry list of unethical behavior. On the other hand, the disadvantage of a general mandate to avoid conflicts of interests, or to disclose them, is that we must trust that ALDE members will be perceptive in identifying conflicts and will exercise good judgment in acting appropriately.

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In each of the above fact situations, there is a potential conflict of interest. For Dennis, it is getting the best deal for Lutheran Camp versus benefiting his cousin. For Tom, it is using his best efforts to raise money for his employer, the Lutheran Retirement Home, while being expected also to use his best efforts to raise money for the local Lutheran college. And for Mary, it is representing the best interests of the donor's estate while representing the best interests of herself and Lutheran High School.

One might argue that no ethical violation exists: Dennis' cousin may be offering goods to the camp for a price equal to or less than any other vendor. Tom may be perfectly capable of vigorously raising funds for the college without impairing or affecting his efforts for the home. Mary may be a logical choice for executrix in the donor's opinion and may have developed a genuine personal friendship with the donor that the donor wishes to acknowledge in her will. But if we set aside this inside information about these folks and look at the situations with the eyes of the public and our donors, a very different picture emerges.

First, let's consider Dennis' situation. As a good steward of the camp's resources, Dennis has the duty to get a fair price on the "trash and trinkets." Assume that Dennis has researched the market and concludes that his cousin is offering the best price. But, let's apply the ultimate test...public scrutiny. How does it look to donors and the public when a charity's business goes to the fundraiser's family or close friend? Remember that the public won't be aware of Dennis' market research. Is there not an appearance of impropriety? Would disclosure help? Certainly Dennis must disclose the conflict of interest to the camp's governing board. But consider whether the economics of the situation plus the Board's approval are sufficient to protect against the negative image of a charitable organization that directly benefits family members of employees in this manner. This sort of back-scratching has led to very strict conflict of interest policies in many private and public organizations.

The appearance of impropriety is much clearer in the case of Mary, and exists in both cases - if she accepts the role of executrix for a donor or if she accepts a bequest. Although genuine friendships between development professionals and donors commonly form, developing and maintaining the relationship were parts of Mary's job. The purpose of the relationship was to benefit the high school, not to result in personal gain to Mary.

One of the painful aspects of working in development is becoming aware of the loneliness and vulnerability of some older donors. To the public, Mary's involvement in the estate as executrix or her acceptance of a bequest may look like exploitation of a relationship that was not intended to be personal, and calls into question the integrity of Mary's organization as to how it obtains bequests. To some observers, especially the donor's family and friends, the question of undue influence by the charity arises when a charity that is named in the will, or an employee of the charity, is also executor of the will. To most observers, the development officer who is named in the will has impermissibly crossed the line.

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Although Tom's situation may not have the same degree of appearance of impropriety, there are a number of troublesome questions. Is it possible for Tom to conduct his work for both charities without divided loyalty? Is he capable of raising funds for the college as a volunteer without diminishing or impairing his efforts for Lutheran Retirement Home, his employer? For example, if a donor to the home appears on a list of potential donors to the college's capital campaign, can he justify asking for a gift to the college that could affect future amounts received by Lutheran Retirement Home? Will he be comfortable asking the same donor for gifts to both charities? We know that fundraising success is often due to the relationship between the donor and the fundraiser. Can Tom resist using relationships developed in his role as fundraiser for the home to benefit the college, even though some of those donors may be willing to make gifts, not because of commitment to the college but primarily because of their regard for Tom? In a community where donor prospects are limited, the temptation will be great. Can Tom use information about donor prospects that he has accumulated in his role as fundraiser for Lutheran Retirement Home? What is confidential? What is proprietary? Does the home "own" the information gained by Tom as an employee?

The ways these situations are resolved by the development officers reflect not only upon that individual and his or her organization, but contribute to the image of the profession as well. So how should a development officer approach a situation that may involve potential conflicts of interest? Here are some suggestions:

1. Talk about the situation with a respected colleague in the development field.
2. Think of the sound bite-how would your donors, supporters, and constituents react to reading about it in the local newspaper?
3. What is the highest ground you can take? If we hold ourselves to the highest standards, sometimes we lose advantage, suffer inconvenience and sacrifice personal gain. But the result is integrity, and the payoff is enhancement of the reputation of our profession and our organizations.