

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

SUBJECT: CONFLICT OF INTEREST WAIVERS
POLICY NO.: 000-34
EFFECTIVE DATE: November 24, 2020

BACKGROUND:

The City of San Diego (City) occasionally receives requests to waive potential conflicts of interest under the California Rules of Professional Conduct (CRPC), Rules 1.7 and 1.9. CRPC Rules 1.7 and 1.9 prohibit an attorney from representing clients whose interests may be adverse to, and therefore conflict with, another client's or a former client's. Under the CRPC, most conflicts may be waived by the potentially adversely affected client, but only after that client is fully informed of the circumstances giving rise to the potential conflict(s).

Under CRPC Rule 1.13, the City, as a municipal corporation, is "the client" acting through its highest authorized officer, employee, body, or constituent overseeing the particular matter. Depending upon the matter, this may be the City Council (Council) as the legislative body of the City. *See* San Diego Charter, Art. III.

PURPOSE:

The purpose of this Policy is to provide a notification procedure for potential conflicts of interest that concern matters for which the City Attorney's Office has determined Council to be "the client" under CRPC Rule 1.13. Further, it provides guidance for when conflicts may be waived.

POLICY:

Where waiver of conflicts of interest is not already addressed in an applicable attorney services agreement, waivers may be granted if (1) waiver of the conflict does not pose a risk of detrimental impact to the City and (2) the conflicted attorney, by virtue of his or her representation of the City, obtained no confidential information that is material to the matter. If the conflicted attorney works at a law firm, there must also be appropriate screening measures in place to protect against sharing of confidential information obtained from the City.

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PROCEDURE:

The City Attorney's Office will promptly notify the Council President's Office in writing of all requests for waiver to be placed on the Council agenda as a consent item for the Council's consideration, where the City Attorney's Office has determined that Council is the client under CRPC Rule 1.13. Once placed on the Council agenda, the Council will have the authority to consider and grant the requests consistent with the factors articulated in this Policy. For all other requests, the Mayor in consultation with the City Attorney is authorized to consider and grant the request(s) consistent with the factors articulated in this Policy.

HISTORY:

"Conflict of Interest Waivers"

Adopted by Resolution R-311286 – 08/04/2017

Amended by Resolution R-313351 – 11/24/2020