

WSR 21-09-020
RULES OF COURT
STATE SUPREME COURT
[April 7, 2021]

IN THE MATTER OF THE ) ORDER
SUGGESTED AMENDMENT TO RPC ) NO. 25700-A-1337
1.11 cmt. 2—SPECIAL CONFLICTS )
OF INTEREST FOR FORMER AND )
CURRENT GOVERNMENT )
OFFICERS AND EMPLOYEES )

The Washington State Bar Association's Board of Governors, having recommended the expeditious adoption of the suggested amendment to RPC 1.11 cmt. 2—Special Conflicts of Interest for Former and Current Government Officers and Employees, and the Court having considered the suggested amendment, and having determined that the suggested amendment will aid in the prompt and orderly administration of justice; Now, therefore, it is hereby

ORDERED:

(a) That the suggested amendment as shown below is expeditiously adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the suggested amendment will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 7th day of April, 2021.

Johnson, J.
Madsen, J.
Owens, J.
Stephens, J.
Gonzalez, C.J.
Gordon McCloud, J.
Yu, J.
Montoya-Lewis, J.
Whitener, J.

SUGGESTED AMENDMENT TO
RULES OF PROFESSIONAL CONDUCT

RPC 1.11 - SPECIAL CONFLICTS OF INTEREST FOR FORMER AND CURRENT GOVERNMENT OFFICERS AND EMPLOYEES

(a) - (e) Unchanged.

Comment

[1] Unchanged.

[2] [Washington revision] Paragraphs (a)(1), (a)(2) and (d)(1) restate the obligations of an individual lawyer who has served or is currently serving as an officer or employee of the government toward a former government or private client. Rule 1.10 is not applicable to the conflicts of interest addressed by this Rule. Rather, paragraph (b) sets forth a special imputation rule for former government lawyers that provides for screening and notice. Because of the special problems raised by imputation within a government agency, paragraph (d) does not impute the conflicts of a lawyer currently serving as an officer or employee of the government to other associated government officers or employees, although ordinarily it will be prudent to screen such lawyers. But see State v. Nickels, 195 Wn.2d 132, 456 P.3d 975 (2020) (holding that an elected county prosecutor's former client conflict is imputed to all attorneys in the prosecuting attorneys' office).

[3-10] Unchanged.