



Conflicts Checking System

What is conflicts checking?

Conflicts checking is the process of looking through your records to see if there is a potential conflict as defined under ERs 1.7 – 1.11. Depending on your method and process, it may be accomplished by conducting a keyword search for specific terms or names and if there is a match, analyzing whether that match indicates a conflict.

What may cause a conflict?

It is possible that either a person involved in a current, prior or prospective legal matter or the subject of a current, prior or prospective legal matter may cause a conflict.

Issues to address in your conflicts checking procedure

- How will the conflicts check will be conducted?
- When will the initial conflicts check be done?
- Who will do the checking?
- What will happen if the person who does the conflicts check is out of the office otherwise unable to promptly conduct the search?
 - Who ultimately determines whether there is an actual or potential conflict?
 - How you will document that a conflicts check has been performed?
 - During what points in the representation will a conflicts check be performed?
- What information will you be collecting from your potential new client in order to conduct your initial conflicts check?
 - First and last name?
 - Aliases and maiden name?
 - Spouse's name?
 - Determine what is relevant for your practice area.

- Consider what mechanism you will use to check for conflicts with former and prospective clients. Consider who should be included in your conflicts checking system so that a thorough check can be done:
 - Your former and prospective clients
 - Staff and associates on prior cases
 - Witnesses in your case
 - Opposing parties, witnesses, lawyers
- Where will you check?
 - Contacts list?
 - Documents?
 - Emails?
- How will you keep track of potential clients who did not become clients for conflicts checking?
- What search chain will you use? What if it is a name that could be easily misspelled or that has many variations?
- Is your conflicts checking policy written down somewhere? Do you regularly review this policy with your staff?
- What is the process from start to finish?

Conflicts Checking and Practice Management Software

Practice management software is a great tool for organizing your contacts (and if you have not checked it out, be sure to take a look at our Practice Management Software [comparison chart](#) along with our [Practice Management Software checklist](#)). A comprehensive conflicts checking system would search both contacts and documents for matches.