

Holland & Knight's Lawyer Ethics, Risk Management and Regulation Team provides the full range of services that lawyers, law firms, and corporate and governmental legal departments need to assure ethical and effective representation of their clients. As seasoned attorneys in our field, we are ready to respond, either in a preventative mode or when particular issues need immediate attention.

We also write and speak extensively on the full range of legal ethics and legal risk management issues. In the course of doing so, we have discovered that when it comes to public legal ethics CLEs, there is a critical gap: public legal ethics CLEs are almost always devoted to the needs and interests of outside counsel. In addition, it can be difficult or impossible for an audience member to ask a client-specific question at a public CLE.

Our team offers legal ethics CLEs on a private, in-house and company-specific basis. This enables us to address the issues of greatest concern to the company and its in-house counsel in an entirely confidential setting. In addition, because we hold the presentation at the company's offices or by video conference, in-house counsel travel time and related costs and disruption are minimal.

ALTERNATIVE FEE ARRANGEMENTS

Corporate legal departments are under constant pressure to reduce outside legal fees. This program provides guidance for understanding, planning, drafting and implementing alternative fee arrangements, including the various types of available alternative fee arrangements, the ethical implications and risks inherent in alternative fee arrangements, and how to mitigate or eliminate that risk.

ATTORNEY-CLIENT PRIVILEGE FOR THE IN-HOUSE LAWYER

This program identifies the essential elements of the attorney-client privilege, to whom it belongs and how it is or is not waived in an entity setting. In addition, we discuss whether privilege may be invoked over the entity's communications with third-party agents such as vendors and consultants, the distinction between business and legal advice and how to preserve the privilege when those lines are blurred. We also address whether the privilege transfers to successor entities in the case of corporate buy outs and asset transfers.

COMMUNICATIONS WITH REPRESENTED PERSONS AND ENTITIES

This program discusses the evolving law regarding which present and former employees and agents may or may not be considered to be "represented" under the applicable ethics rules, the implications of these rules for informal discovery, and the extent to which counsel may ghost-write letters or set the script for conversations between client representatives without advance clearance by opposing counsel.

CONFLICTS OF INTEREST FOR CORPORATE COUNSEL

This program provides a conflict of interest overview for corporate in-house counsel including identification of commonly arising conflicts; how to draft, review and manage requests for conflict waivers from outside counsel, as well as advance waiver considerations and enforceability (and how and why advance waivers can be beneficial); and identification of conflicts of interest within the legal department and between the entity's employees and managers, officers, directors and other constituents.

CORPORATE INTERNAL INVESTIGATIONS FOR THE IN-HOUSE LAWYER

This program discusses the ethical and practical issues every in-house counsel should know before participating in an internal corporate investigation, including protection of attorney-client privilege, what information and communications may be discoverable in subsequent litigation, ethical duties to report "up the chain," legal obligations to report publicly under Sarbanes-Oxley, interfacing with government agencies, reporting on the results of the internal investigation and policing outside counsel.

E-DISCOVERY FOR IN-HOUSE COUNSEL

Electronic discovery is the process of collecting, preserving, processing and producing electronic data in state and federal court discovery and in the scope of governmental investigations. This program discussed the nuts and bolts of e-discovery, including identification of when a corporation's preservation obligations begin and to whom it applies, understanding and distributing litigation hold letters, and production of documents and data including a discussion of what constitutes data that must be produced.

ELECTRONIC LAWYERING FOR IN-HOUSE COUNSEL

This program discusses issues involving the ethical and practical risks and rewards posed by electronic and remote lawyering by corporate constituents, in-house counsel's obligations to protect privilege and confidential client information, permissible options for data storage and cloud computing, and data security and privacy, including the duties that arise when security has been or may have been breached.

THE ENTITY AS THE IN-HOUSE LAWYER'S CLIENT

This program works through the unique client identification issues facing in-house counsel, including a discussion of who is and is not the in-house counsel's client (employees, board members, subsidiaries, affiliates, etc.) and how best to communicate that role; protection of attorney-client privilege for in-house counsel's discussions with the entity's employees and agents; implications of entity representation in the context of corporate investigations; and reporting up and outside the chain.

ETHICS FOR GOVERNMENT LEGAL DEPARTMENTS

Government lawyers often face different ethical standards when it comes to the assessment of conflicts, firm-wide attribution of conflicts, control of attorney-client privileged and confidential client information, and other issues. This program addresses the ethical obligations of government lawyers as well as how, why and when government counsel have, or may have, different responsibilities and rights than their private practice counterparts.

IN-HOUSE COUNSEL AS EMPLOYEE

In-house counsel has ethical duties to the corporation that might conflict with the lawyer's own personal interests. This program focuses on the ethical implication of in-house counsel's own compensation negotiations with the entity at the beginning and throughout the representation, the unique problems posed by in-house counsel as whistleblower, in-house counsel's ability to sue the entity for wrongful termination, and multijurisdictional practice in a global business and legal world.

NEGOTIATION ETHICS AND IN-HOUSE COUNSEL

In-house counsel is often called upon to negotiate on behalf of the entity client. This program discusses the fine line between "puffing" and material misrepresentations, and what to do when the client representative persists in the misrepresentation, contact with represented persons, parties and entities, and when ethical duties arise to correct errors made by opposing counsel that may benefit your client.

SOCIAL MEDIA FOR IN-HOUSE COUNSEL

This wide-ranging program covers topics from managing employee and lawyer use of social media to ethically utilizing social media in the hiring, firing and litigation process. Learn the ethical ways in which in-house and outside counsel may use social media to investigate employees, witnesses, adverse counsel and experts; the ethics of "friending;" lawyer as avatar and more.

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