Beyond the Rules: Ethical Leadership for Government Attorneys

D. Nichole Davis, Esq., CDP® · Participant Handout

The 4C Ethical Lens

Four questions an ethical leader asks out of habit, not only in a crisis.

Compliance
Does this meet the minimum the Rules require?

Consistency
Would I handle this the same way, for every person, every time?

Consequences
Who is affected by this decision, and how?

Courage
Am I willing to do the right thing even if it costs me something?

Compliance is the floor. Ethical leadership shows up in the other three.

Who's Who

The Department of Public Facilities is a fictional South Carolina state agency that maintains state-owned buildings. It answers to a Board of Commissioners. Everyone below is fictional.



Renée Caldwell
General Counsel
Twelve years at the agency. Respected and protective of the place she helped build.



Thomas Whitfield
Agency Director
Appointed three years ago. Charming and certain every problem has a message fix.



Andre Lyons
Deputy General Counsel
Nine years at the agency. Supervises the records team. Stretched thin and avoids conflict.



Kayla Brooks
Staff Attorney
Second year at the agency. Handles public records requests. Careful and still learning when it's safe to speak.



Gloria Simmons
Records Coordinator
Twenty years with the State. Recently started using an AI redaction tool.



Hannah Price
Requesting Attorney
Represents the family of a maintenance worker hurt in a stairwell collapse at a state facility.

What We Know So Far

Write down each new development as the story unfolds.

When	What happened
Friday	
Monday	
The Director's call	
The clawback letter	
Later that month	

TABLE DISCUSSION

Talk It Over: The Clawback Letter

The scene. Andre asks Kayla to draft a letter to Hannah Price. It must say the Director's texts were privileged, call their release inadvertent, and demand their return. He needs it in an hour. The texts are between the Director and his deputy about a budget hearing. No lawyer was on the thread, and no one asked for legal advice.

Our table's lens. Circle one: Compliance · Consistency · Consequences · Courage

Question	Our thinking
1. Is the privilege claim arguable, or is the office talking itself into calling it arguable?	
2. What should Kayla do in the next hour, and what should she say to Andre?	
3. What does Rule 5.1 require of Andre once Kayla raises her concern(s)?	

Our one sentence for the room

REFERENCE

The Rules at a Glance

These summaries are a quick reference, not a substitute for the text. Each Rule name links to the official version in Rule 407 of the South Carolina Appellate Court Rules.

Rule	In plain terms
Rule 5.1 **Responsibilities of Partners, Managers, and Supervisory Lawyers**	Lawyers with managerial or direct supervisory authority make reasonable efforts to ensure other lawyers follow the Rules. A lawyer answers for another lawyer's violation if she orders or ratifies it, or knows in time to prevent or reduce the harm and does not act.
Rule 5.2 **Responsibilities of a Subordinate Lawyer**	A lawyer is bound by the Rules even when following someone else's direction. A subordinate does not violate the Rules by following a supervisor's reasonable resolution of an arguable question of professional duty.
Rule 5.3 **Responsibilities Regarding Nonlawyer Assistants**	Lawyers make reasonable efforts to ensure that the conduct of the nonlawyers who work with them fits the lawyers' own professional obligations.
Rule 5.4 **Professional Independence of a Lawyer**	Protects a lawyer's independent professional judgment. It limits fee sharing with nonlawyers and bars letting a person who pays for a lawyer's services to someone else direct the lawyer's judgment.
Rule 5.5 **Unauthorized Practice of Law; Multijurisdictional Practice of Law**	A lawyer may not practice law where doing so violates that jurisdiction's regulation of the profession, or help someone else do so. Lawyers licensed elsewhere may practice in South Carolina only in limited circumstances.
Rule 5.6 **Restrictions on Right to Practice**	A lawyer may not take part in agreements that restrict a lawyer's right to practice after a working relationship ends, or as part of settling a client controversy.
Rule 5.7 **Responsibilities Regarding Law-Related Services**	Explains when the Rules apply to law-related services, such as services offered alongside a lawyer's legal work or through a separate business she controls.
Rule 1.13 **Organization as Client**	A lawyer for an organization represents the organization, acting through its authorized constituents. Explains when a lawyer must take a concern to higher authority within the organization.
Rule 2.1 **Advisor**	A lawyer exercises independent professional judgment and gives candid advice.

Read the full Rules

Scan the code for the complete Rules of Professional Conduct, or visit the **South Carolina Judicial Branch's Rule 407 page**.

REFLECTION

Questions to Consider

1. Who in your office would tell you about a mistake on Monday morning, and who would hope you never find it?

2. Which of the four Cs do you skip most often when you are tired, rushed, or outranked?

3. When did you last treat a person as your client when the entity was your client?

4. What is one review standard you could put in place within 30 days that would make Rule 5.1 real in your office?

5. If you are a subordinate lawyer, what would you need to hear from a supervisor to feel safe raising a concern?

THE QUESTION TO CARRY HOME

If the people I supervise were describing the standards I tolerate, what would they say?