

Ethics, Liability & Conflicts of Interest

Effective Governance 2025

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Why care about how?

- You are a fiduciary
 - Act in best interests of others
 - Loyalty, care, good faith, confidentiality, and avoidance of conflicts
- Your job: to carry out duties for the benefit of “the people”



Results of Bad Behavior



Basics of Good Governance

- Transparency, fairness & predictability
- Adhering to boundaries – even when it is uncomfortable
- Remembering “we” over “me”



State Civil Liability

- Colorado Governmental Immunity Act
- Sovereign immunity for tort unless:
 - Waiver applies
 - Willful and wanton conduct
 - Outside scope of role



Federal Civil Liability

- Acting under color of law
- Deprivation of rights, privileges or immunities under Federal constitution and laws
- Absolute v. qualified immunity



Federal Civil Liability

- First Amendment
- Procedural Due Process
- Substantive Due Process
- Equal Protection
- Civil Rights Laws



Criminal Laws

- Bribery and corrupt influences
- Attempt to influence a public servant
- Failing to disclose conflict of interest
- Abuse of public records
- Misuse of official information
- Official misconduct
- Local offenses



Governance as a Body

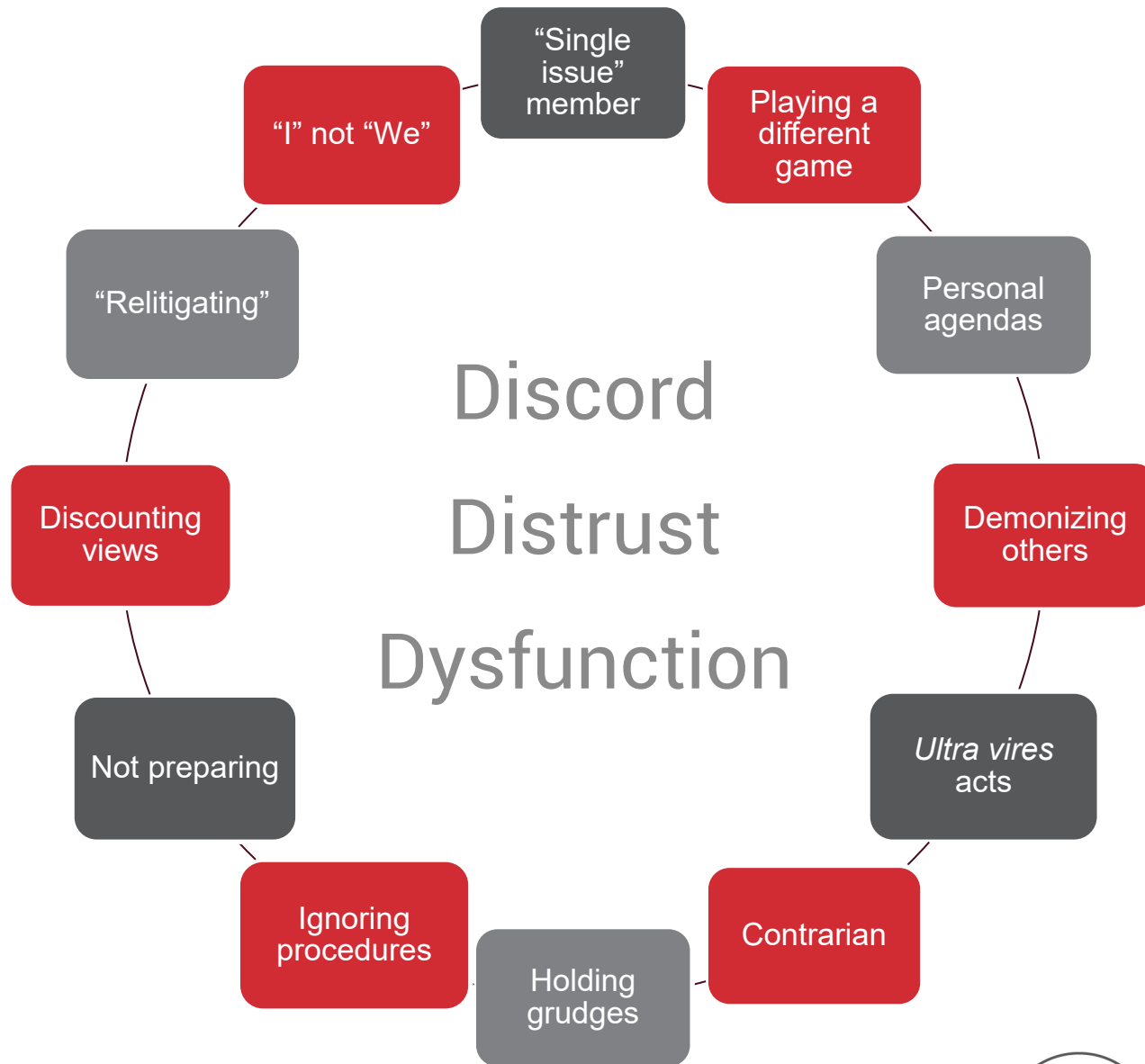
- Laws define powers and duties and allocate responsibilities (“scope”)
- Boards work through deliberation, consensus-building, and collective action



Process and Procedures

- Do more, fairly
- Avoid waste
- Equal participation and information
- Better long-term outcomes
- Reduced risk





Positive Board Dynamics

- Disagree robustly!
- Focus on shared values
- Follow process and laws
- Remember your role
- Watch your behaviors and bias



Power & Personal Conduct

- Limits of actual power
- Problems with perceived power
- Abusing courtesy
- Interactions with each other, the public, staff, other officials



Liability Questions

- Calling the question
- Harassment
- Police chief on speed dial
- Social media



Ethics: Gifts

- Breach of fiduciary duty: gift of substantial value/benefit (over \$75) (that would improperly influence official act)
- Excludes: campaign contributions; unsolicited item of trivial value or “token;” unsolicited material; admission at event where speaking; some reasonable travel expenses; gift from friend; normal compensation



Ethics: Conflicts of Interest

- Personal vs. financial
- Financial conflict in course of duties:
 - Substantial financial transactions (e.g., contracts) with personal benefit
 - Official acts with financial interest
 - Accept goods/services for personal benefit
- Disclosure and recusal



Ethics: Confidential Information

- Breach of fiduciary duty: disclosure of confidential information to further financial interests
- Harm to organization
- Injury to working relationships



Ethics Questions

- Tickets to a football game
- A dinner invitation
- Regulation of short-term rentals
- Executive session:
 - “They broke the rules”
 - Lawsuit against the city



Resources

- [Ethics, Liability & Best Practices for Elected Officials Handbook](#)
- [CIRSA Elected Officials Training Shorts](#)
- [Colorado Municipal Government: An Introduction](#)

