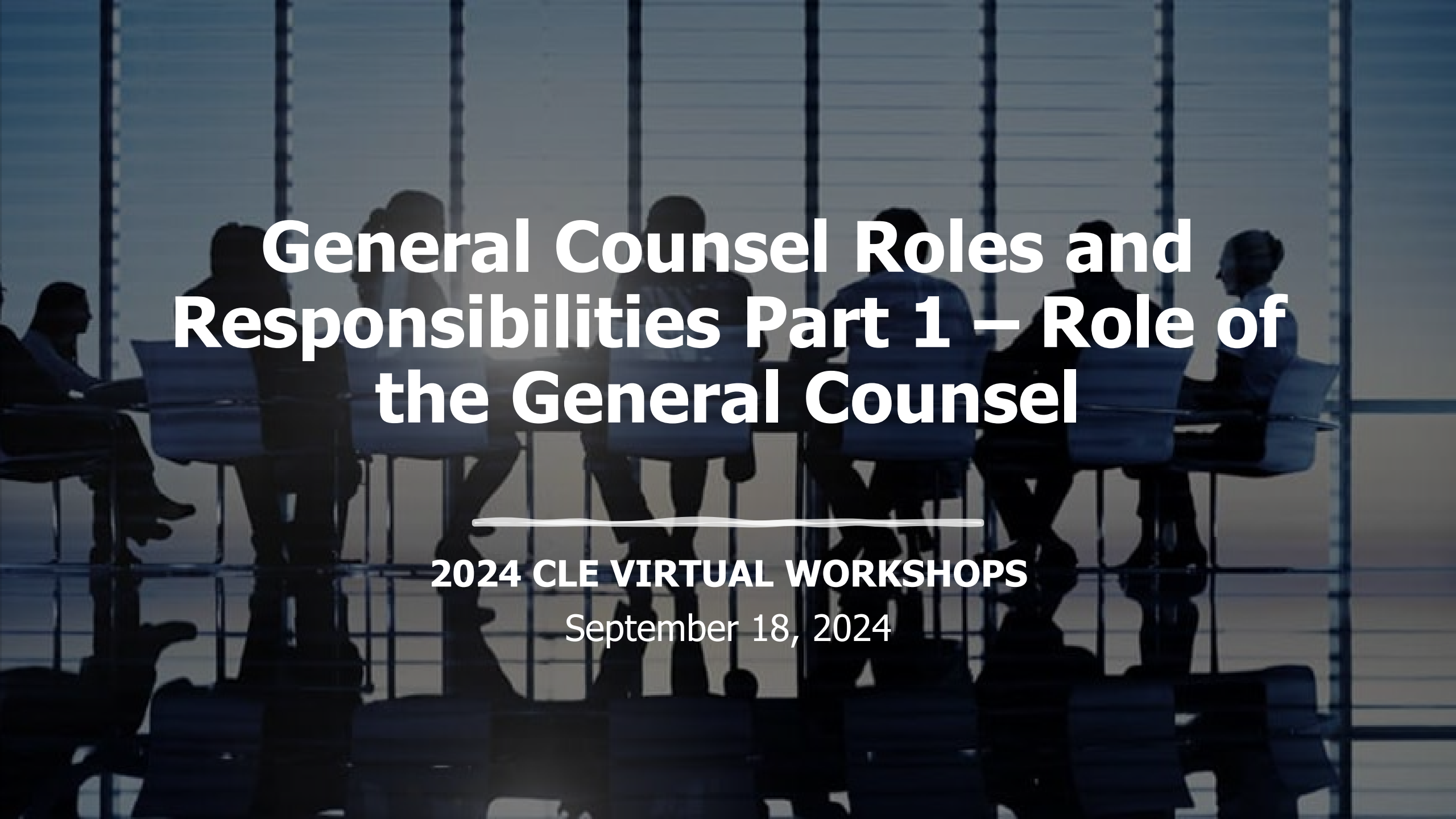


The background of the slide features a dark, blue-toned photograph of a modern office interior. Several people are silhouetted against large windows, appearing to be in a meeting or collaborative work environment. The text is overlaid on this image.

General Counsel Roles and Responsibilities Part 1 – Role of the General Counsel

2024 CLE VIRTUAL WORKSHOPS

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Discuss the role and nature of the General Counsel services you provide.

Consider:

- Rule 1.13 (Organization as Client)

How do you prepare for Board meetings, and what is your role at Board meetings?

Consider:

- Rule 1.1 (Competence)
- Rule 1.3 (Diligence)

What role do you serve at your agency?

- a. In-House Counsel**
- b. Outside Counsel**
- c. Board Member**
- d. Non-Attorney Staff Member**

AUDIENCE POLL



**The Ralph M.
Brown Act (“Brown
Act”)**

**California Public
Records Act
 (“CPRA”)**

**Conflict of Interest
Laws**

**Political Reform
Act**

**Government Code
section 1090
(Contracts)**

**Statement of
Economic
Interests (“Form
700”)**

**Conflicts of
Interest and
Campaign
Contributions**

**California Rules of
Professional
Conduct**

**Conflicts of
Interest When
Leaving Office**

Ethics Training

**Sexual
Harassment
Prevention Training**

**Perks (Limitations
and restrictions on
Gifts, Honoraria,
Travel and Loans)**

Bribery

**Misuse of Public
Funds**

**Common Law Bias
Prohibition**

**Due Process
Requirements**

**Doctrine of
Incompatible
Offices**

**Competitive
Bidding
Requirements for
Public Contracts**

**Anti-nepotism
Laws**

What commonalities do you see among in-house counsel and outside counsel?

Consider:

- Rule 1.13 (Organization as Client)
- Conflict of Interest Laws
- The Ralph M. Brown Act ("Brown Act")
- California Public Records Act ("CPRA")
- Model Rules of Professional Conduct

What are the differences between General Counsel and Special Counsel services? As General Counsel, when do you refer matters to Special Counsel?

Consider:

- Rule 1.1 (Competence)s
- Rule 1.7 (Current Clients)

When and how do you report to the Board?

When and how do you report to agency management or staff?

Consider:

- Rule 1.4 (Communication with Clients)
- Rule 1.13 (Organization as Client)

What is the difference/line between giving advice and recommendations versus a mandatory/non-discretionary matter? How do you distinguish between what constitutes a mandatory legal or discretionary matter, and how do you handle each?

Consider:

- Rule 1.2.1 (Advising or Assisting the Violation of Law)
- Consequences for violation of Gov. Code (fines, imprisonment, disqualified from holding office, ect.)

What sort of ethical issues have you encountered?
How do you advise clients when dealing with ethical, recusal, incompatibility or Government Code §1090 issues? Does advice from an attorney provide a legal defense?

Consider:

- Rule 1.2 (Scope of Representation and Allocation of Authority)
- Ethics Training (Gov. Code, § 53235)
- Conflicts of interest, gifts, reimbursements, government transparency, and fair processes, including but not limited to incompatible offices and competitive bidding practices.

Have you encountered a situation where someone at your agency did something that was ill-advised or unethical, but not illegal?

- a. Yes**
- b. No**
- c. Not sure**

AUDIENCE POLL



How do you handle circumstances where someone has done something you believe may be illegal? How do you advise and document the matter?

Consider:

- Rule 1.2 (Scope of Representation and Allocation of Authority)
- Rule 1.13 (Organization as Client)
- Rule 8.3 (Reporting Professional Misconduct)

What best practices do you recommend for identifying and addressing ethical issues?

Consider:

- Rule 8.3 (Reporting Professional Misconduct)

How do you handle questions from board members or staff involving personal, political or non-agency issues?

Consider:

- Rule 1.1 (Competence)
- Rule 1.2.1 (Advising or Assisting the Violation of Law)
- Rule 1.13 (Organization as Client)

Is there an ethical requirement to affirmatively check-in on agency business, or is it sufficient to do only what the agency asks?

Consider:

- Rule 1.4 (Communication with Clients)

When and how should the General Counsel weigh in on questionable, unethical or unlawful conduct? Does the General Counsel represent the agency, the board, the staff and/or the public?

Consider:

- Rule 1.4 (Communication with Clients)
- Rule 1.13 (Organization as Client)

Do you feel adequately informed by your agencies? What do you wish clients/agencies would do differently?

Consider:

- Rule 1.1 (Competence)
- Rule 1.3 (Diligence)
- Rule 1.4 (Communication with Clients)

What best practices do you recommend for how staff can best collaborate and work with General Counsel?

QUESTIONS?