

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
ARIZONA CODE OF JUDICIAL)	Administrative Order
ADMINISTRATION § 1-303:)	<u>No. 2010 - 13</u>
CODE OF CONDUCT FOR JUDICIAL)	
EMPLOYEES)	
_____)	

The above-captioned provision having come before the Arizona Judicial Council on December 16, 2009, and having been approved and recommended for adoption,

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the above captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration replacing Administrative Order No. 97-41.

IT IS FURTHER ORDERED that this provision shall be effective on and after February 1, 2010.

Dated this 13th day of January, 2010.

REBECCA WHITE BERCH
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 1: Judicial Branch Administration
Chapter 3: Judicial Officers and Employees
Section 1-303: Code of Conduct for Judicial Employees

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B. Purpose and Intent.

An independent, fair and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the rules contained in this code are the precepts that judicial employees, individually and collectively, must respect and honor judicial employment as a public trust and strive to maintain and enhance confidence in the legal system.

Judicial employees should maintain the dignity of the judiciary at all times, and avoid both impropriety and the appearance of impropriety. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

This code establishes uniform standards for the ethical conduct of judicial department officials, not covered by the Code of Judicial Conduct, and judicial employees. It is not intended to be exhaustive as persons governed by this code are also governed in their professional and personal conduct by personnel policies, merit rules and general or special ethical standards. It is intended to complement the Code of Judicial Conduct that governs the conduct of judges and should be interpreted in a manner that is consistent with that code. The minimum standards contained in this code do not preclude the adoption of more rigorous standards by law, court order or local rule. Violations of this code shall be enforced locally and in the same manner as violations of local personnel rules that apply to judicial employees.

C. Terminology

"**Canon**" means a fundamental principle governing the conduct of judicial employees. The broad statement of principle appearing before each major section of the code is the canon. There are four canons in this code.

"Court managers" means high-level administrative staff who work in such close proximity to judges that their actions, decisions or conduct might be viewed as the official acts or positions of the judiciary. In the superior, municipal and justice courts, court managers include court administrators, chief probation officers, juvenile court directors, and any other similar staff designated by the clerk of the superior court, presiding judge, chief judge or chief justice of each court, but not the elected clerks of court themselves. In the appellate courts, court managers include clerks of the court, chief staff attorneys, the administrative director, deputy director, division directors and other staff designated by the chief justice or chief judges.

Comment

The actual duties and reporting relationship of a court manager varies considerably from position to position and from court to court, so the important consideration is what the court manager does and not just the title of the position. Court managers who do not act as court administrators and do not speak for the court as a whole may not be subject to the same limitations as the court's top administrator. It is the responsibility of the clerk of the superior court and the presiding judge, chief judge or chief justice of each court to determine which local court managers are included within the definition for their court.

"Courtroom clerks" means a staff person of the elected clerk of court, the chief clerk or a judge of a justice or municipal court, who works regularly the courtroom with a judge.

Comment

A courtroom clerk is staff of the elected clerk of the superior court or works under the supervision of the chief clerk or a judge of a justice or municipal court. The courtroom clerk works with a particular judge or on a particular calendar as assigned. Due to the close association with a judge, a courtroom clerk's actions and comments might be attributed to the judge.

"Domestic partner" means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married.

"Economic interest" means ownership of more than a de minimis or insignificant legal or equitable interest and is further defined, for purposes of compliance with state law, in A.R.S. § 38-502(11). Except for situations in which the judicial employee participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding in which the judicial employee participates, it does not include:

- (1) an interest in the individual holdings within a mutual or common investment fund;
- (2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judicial employee or the judicial employee's spouse,

domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;

(3) a deposit in a financial institution or deposits or proprietary interests the judicial employee may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or

(4) an interest in the issuer of government securities held by the judicial employee.

“Fiduciary” includes relationships such as executor, administrator, trustee, or guardian.

“Impartial,” “impartiality,” and “impartially” mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, in communication or conduct as well as maintenance of neutrality concerning issues that may come before a judge.

“Impending” is a matter that is imminent or expected to occur in the near future.

“Incumbent” means the person who currently holds an elected office by election or appointment to that office.

“Impropriety” includes conduct that violates the law, court rules, merit rules or provisions of this Code, and conduct that undermines a judicial employee’s independence, integrity, or impartiality.

“Independence” means a judicial employee’s freedom from influence or controls other than those established by law.

“Integrity” means probity, fairness, honesty, uprightness, and soundness of character.

“Judge” means any person who is authorized to perform judicial functions within the Arizona judiciary, including a justice or judge of a court of record, a justice of the peace, magistrate, court commissioner, special master, hearing officer, referee or pro tempore judge.

“Judicial employee” means any person other than a judge who performs duties in the judicial department of this state, as it is defined in Az. Const. Art. 6 § 1 as a full time employee, a part time employee or a volunteer

“Law” encompasses court rules as well as ordinances, regulations, statutes, constitutional provisions, and decisional law.

“Member of a judicial employee’s family residing in the employee’s household” means any relative of a judicial employee by blood or marriage, or a person treated by the judicial employee as a member of the family, who resides in the household.

“Nonpublic information” means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court

order or impounded or communicated in camera, and information offered in dependency cases or psychiatric reports and any information contained in records that are closed or confidential under Arizona Supreme Court Rule 123 or other law.

“Pending” is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition.

“Personal staff” means assistants, secretaries, law clerks, bailiffs, and court reporters appointed by, assigned regularly to, or reporting directly to a judge.

Comment

If an employee has part time duties within the court or government in addition to serving on a judge’s personal staff, as a courtroom clerk, or as a court manager, the employee is still subject to the limitations of this code. The relationship with the judge exists whether or not the duties are performed full time.

“Political organization” means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this code, the term does not include a judicial candidate’s campaign committee created as authorized by Rule 4.3 of the Code of Judicial Conduct.

“Relative” means a spouse, child, grandchild, great-grandchild, parent, grandparent, sibling, aunt, uncle, niece, nephew, or other person with whom the judicial employee maintains a close familial relationship, including any person residing in the employee’s household.

“Volunteer” is a person appointed or assigned by an authorized court official or other appointing authority to perform specified duties on behalf of the court.

D. Conduct Rules and Comments.

CANON 1

A JUDICIAL EMPLOYEE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1

Compliance with the Law

(A) A judicial employee shall comply with the law.

(B) A judicial employee shall not use public funds, property or resources wastefully or for any private purpose not authorized by judicial or administrative authorities.

(C) A judicial employee shall not do business on behalf of the court with a person known to be a former judicial employee who left the court's employment during the preceding twelve months and who represents a person or business entity concerning any matter in which the former employee was directly and personally involved and over which the former employee exercised substantial and material administrative discretion.

Comment

1. As public servants, judicial employees should not act in any way that would violate specific laws or the provisions of this code. Public confidence in the judiciary is maintained by the willingness of each employee to live up to this standard. When faced with conflicting loyalties, judicial employees should seek first to maintain public trust. Employees should not, for example, knowingly make false entries on time cards or personnel records; backdate a court document, falsely claim reimbursement for mileage or expenses; misuse the telephone, facsimile machine, or copying machine; or take supplies home for private use. This conduct may be theft, a class 1 misdemeanor ranging to a class 3 felony under A.R.S. § 13-1802 or fraud, a class 2 felony under A.R.S. § 13-2310.

2. A judicial employee who knows a person who seeks to do business with the court is a former employee must determine whether the former employee is disqualified under paragraph (C). Abuse of former employment by a former employee may be a class 6 felony under A.R.S. § 38-504(A).

RULE 1.2

Promoting Confidence in the Judiciary

A judicial employee shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Comment

1. The fundamental attitudes and work habits of individual judicial employees reflect on the integrity and independence of the judiciary and are of vital importance in maintaining the confidence of the public in the judiciary. Honesty and truthfulness are paramount.

2. Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both professional conduct and personal conduct that affects the public perception of the court.

3. A judicial employee should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the code.

4. Conduct that compromises or appears to compromise the independence, integrity, and impartiality of the judiciary or of a judicial employee undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, this rule is necessarily cast in general terms.

5. Actual improprieties include violations of law, court rules or provisions of this code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judicial employee violated this code or engaged in other conduct that reflects adversely on the judicial employee's honesty, impartiality, temperament, or fitness. A judicial employee's personal and family circumstances are generally not appropriate considerations on which to presume an appearance of impropriety.

RULE 1.3

Abuse of Position

Judicial employees shall not use or attempt to use their positions for personal gain or to secure special privileges or exemptions for themselves or any other person.

Comment

1. It is improper for a judicial employee to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judicial employee to seek or provide special consideration regarding traffic citations or parking violations or to provide special treatment to particular parties or matters for personal reasons. Similarly, a judicial employee must not use court letterhead to gain an advantage in conducting his or her personal business.

2. A judicial employee may provide a reference or recommendation for an individual based upon personal knowledge. The judicial employee may use court letterhead if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the court employment.

3. Accepting, agreeing to accept, giving or requesting a gift or favor with an understanding that any court business or proceeding would be influenced may be bribery, a class 4 felony under A.R.S. §§ 13-2602(A)(2) and 13-2606.

4. It is improper to use or disclose to others confidential information or records for personal purposes. Abuse of confidential information by a current or former employee may be a class 6 felony under A.R.S. § 38-504(B).

CANON 2

A JUDICIAL EMPLOYEE SHALL PERFORM THE DUTIES OF JUDICIAL EMPLOYMENT IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

RULE 2.1

Giving Priority to Ethical Duties

A court employee shall regard the ethical duties provided in this code of conduct as having the highest priority.

Comment

To ensure that judicial employees are able to fulfill their court duties, judicial employees must conduct their personal and professional activities to minimize the risk of conflict with the performance of court duties.

RULE 2.2

Impartiality and Fairness

A judicial employee shall perform court duties fairly and impartially.

Comment

Judicial employees may appear to be providing preferential treatment to litigants, counsel or other persons with whom they discuss the merits of a case pending before the court or behave in a particularly friendly manner. To gauge the propriety of any behavior, employees should consider how opposing parties and counsel who are involved in the proceeding are likely to view the situation.

RULE 2.3

Bias, Prejudice, and Harassment

A judicial employee shall perform court duties without bias or prejudice and shall not manifest bias or prejudice by words or conduct, or engage in harassment in the performance of court duties. This includes but is not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

Comment

1. A judicial employee who manifests bias or prejudice in the conduct of court business impairs the fairness of the judicial process and brings the judiciary into disrepute.
2. Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon

stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Facial expressions and body language and other forms of nonverbal communication may convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judicial employee must avoid conduct that may reasonably be perceived as prejudiced or biased.

3. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socio-economic status, or political affiliation.

4. Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome. See Arizona Supreme Court, Administrative Order 92-33 (Oct. 19, 1992), for the judiciary's sexual harassment policy.

RULE 2.4

External Influences on Court Duties

(A) A judicial employee shall not be influenced in the performance of court duties by partisan interests, public clamor or fear of criticism or reprisal.

(B) A judicial employee shall not permit family, social, political, financial, or other interests or relationships to influence the performance of court duties.

(C) A judicial employee shall not convey the impression that any person or organization is in a position to influence the outcome of a case.

Comment

1. An independent judiciary requires that judges decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular with the public, the media, government officials, or the judge's or judicial employee's friends or family. Confidence in the judiciary is eroded if judicial process or decision making is perceived to be subject to inappropriate outside influences.

2. Employees who think they may be influenced in a particular matter should discuss the situation with a supervisor, administrator, or judge.

RULE 2.5

Competence, Diligence, and Cooperation

(A) A judicial employee shall perform court duties competently, diligently, and promptly.

(B) A judicial employee shall reasonably cooperate with other judicial employees, judges and court officials in the conduct of court business.

(C) A judicial employee shall comply with judicial education requirements and maintain any licensing or certification required for the judicial employee's position.

(D) A judicial employee, when authorized, shall furnish accurate, timely information and shall provide access to public court proceedings and records according to established procedures.

Comment

1. Competence in the performance of court duties requires the knowledge, skill, thoroughness, and preparation reasonably necessary to perform the duties of the judicial employee's position.

2. Court managers should seek the necessary court staff, expertise, training, and resources to enable court employees to perform their responsibilities.

3. Prompt disposition of the court's business requires judicial employees to be punctual in attending to their duties and cooperative with co-workers, judges, and litigants and their lawyers. Article 2, § 11 of the Arizona Constitution requires that "Justice in all cases shall be administered openly, and without unnecessary delay." Rule 123(f)(2) of the Rules of the Supreme Court require the custodian to "promptly respond orally or in writing concerning the availability of the records, and provide the records in a reasonable time..."

RULE 2.6

Assistance to Litigants

A judicial employee shall assist litigants to access the courts by providing prompt and courteous customer service and accurate information consistent with the employee's responsibilities and knowledge and the court's resources and procedures while remaining neutral and impartial and avoiding the unauthorized practice of law. Employees are authorized to provide the following assistance:

(A) Explain how to accomplish various actions within the court system and provide information about court procedures, without recommending a particular course of action;

(B) Answer questions about court policies and procedures, without disclosing confidential or restricted information as provided in Rule 3.2;

(C) Explain legal terms, without providing legal interpretations by applying legal terms and concepts to specific facts;

(D) Provide forms and answer procedural questions about how to complete court papers and forms with factual information by the court customer, without recommending what words to put on the forms;

(E) Provide public case information, without providing confidential case information as provided in Rule 2.5;

(F) Provide information on various procedural options, without giving an opinion about what remedies to seek or which option is best;

(G) Cite statutes, court rules or ordinances a judicial employee knows in order to perform the employee's job, without performing legal research for court customers;

(H) When asked to recommend a legal professional such as an attorney, a legal document preparer, or process server, refer the customer to a resource like a directory or referral service, without recommending a specific legal professional; and

(I) Provide scheduling and other information about a case, without prejudicing another party in the case or providing information to or from a judge that is impermissible ex parte (one party) communication about a case.

Comment

For fuller explanation see the [Guide to Court Customer Assistance: Legal Advice - Legal Information Guidelines for Arizona Court Personnel, Administrative Office of the Courts, Court Services Division, 2007](#) upon which this rule is based.

RULE 2.7

Reserved

RULE 2.8

Professionalism

Judicial employees shall be patient, respectful, and courteous with litigants, jurors, witnesses, lawyers, co-workers, and others who work in the court or contact the court.

Comment

The duty to interact and behave with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to handle matters diligently and promptly. Judicial employees can be efficient and businesslike while being patient and courteous.

RULE 2.9

Communication with Judges.

(A) A judicial employee shall not communicate personal knowledge about the facts of a pending case to the judge assigned to the case.

(B) Based upon general direction by a judge, a judicial employee may communicate information from a party to the judge for scheduling, administrative, or emergency purposes, which does not address substantive matters.

Comment

To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge. A judge may also direct judicial staff, without invoking the notice and disclosure provisions of Rule 2.9 of the Code of Judicial Conduct, to screen written ex parte communications and to take appropriate action consistent with Rule 2.9 of the Code of Judicial Conduct.

RULE 2.10

Statements on Pending and Impending Cases

(A) A judicial employee shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

(B) Notwithstanding the restrictions in paragraph (A), a judicial employee may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judicial employee is a litigant in a personal capacity.

Comment

1. This rule's restrictions on speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.

2. This rule does not prohibit a judicial employee from commenting on proceedings in which the judicial employee is a litigant in a personal capacity. In cases in which the judicial employee is a litigant in an official capacity, the judicial employee may comment publicly on the merits of the case. However, the judicial employee should consider whether any comment is advisable and consistent with that employee's responsibilities.

RULE 2.11

Personal Interests.

(A) A judicial employee shall manage personal and business matters so as to avoid situations that may lead to conflict, or the appearance of conflict, in the performance of the judicial employee's employment.

(B) A judicial employee shall inform the appropriate supervisor of any potential conflict between the judicial employee's performance of court duties and an economic interest of the employee individually or as a fiduciary or of the employee's spouse, domestic partner, parent, or child, or any other member of the employee's family residing in the employee's household.

(C) A member of a judge's personal staff and a courtroom clerk shall inform the judge of any potential conflict of interest, involvement, or activity of the staff member or courtroom clerk in a case pending before the judge. This includes a case in which the judicial employee, the judicial employee's spouse or domestic partner, a great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece of the judicial employee or the judicial employee's spouse or domestic partner, or the spouse or domestic partner of any of these relatives is:

- (1) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;
- (2) acting as a lawyer in the proceeding;
- (3) a person who has more than a de minimis (insignificant) interest that could be substantially affected by the proceeding; or
- (4) likely to be a material witness in the proceeding.

(D) A judicial employee shall withdraw from participation in a court proceeding or court business in which the employee or the employee's spouse, domestic partner, parent, or child, or any other member of the employee's family residing in the employee's household has a substantial personal, economic, or family interest that may actually or appear to influence the outcome of the court proceeding or business.

(E) A judicial employee shall withdraw from any proceeding in which the employee's impartiality might reasonably be questioned due to a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

(F) A judicial employee required to withdraw from participation in a judicial proceeding under this rule, other than for bias or prejudice under paragraph (E), may continue to perform duties related to the proceeding if, following disclosure to the parties and their lawyers, the parties and lawyers agree, without participation by the judge or court personnel in this decision, that the court employee need not withdraw. The agreement shall be incorporated into the record of the proceeding.

Comment

1. Every judicial employee has a legal obligation under A.R.S. § 38-501 et. seq. to diligently identify, disclose and avoid conflicts of interest. A potential personal interest or conflict of interest exists when an official action or decision in which a judicial employee participates may specially benefit or harm a personal, business or employment interest of the judicial employee, the judicial employee's relative or the judicial employee's close friends. In a judicial proceeding, a potential conflict of interest arises if a judicial employee's business associate, relative or close friend is an interested party. Even if no impropriety actually occurs, a conflict of interest creates an appearance of impropriety that can seriously undermine the public's confidence and trust in the court system.

2. If withdrawal from a matter would cause unnecessary hardship, the judge or court manager may authorize the judicial employee to participate in the matter if permitted by the Code of Judicial Conduct, no reasonable alternative exists, and safeguards, including full disclosure to the parties involved, ensure official duties are properly performed.

3. “Economic interest,” is defined in the Terminology section.

RULE 2.12

Reserved

RULE 2.13

Employment of Relatives

Judicial employees shall not be appointed by, or assigned to be directly supervised by, a relative or by a supervisor reporting to a relative. Employees shall not attempt to influence the employment or advancement of a relative by a court except by letters of reference or in response to a person verifying references.

Comment

Employment of a relative by a court manager may be a class 2 misdemeanor under A.R.S. § 38-481.

RULE 2.14

Disability and Impairment

A judicial employee who has a reasonable belief that the performance of another judicial employee or a judge is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall immediately report the observed behavior to a supervisor, administrator, the appropriate Human Resources Office, or the Commission on Judicial Conduct. A judicial employee who receives a report of impairment shall take appropriate action, which may include a confidential referral when the judge or judicial employee agrees to seek assistance from an appropriate assistance program.

Comment

1. “Appropriate action” means action intended and reasonably likely to help the impaired person address the problem and prevent harm to the justice system. Depending upon the circumstances, appropriate action may include but is not limited to speaking directly to the impaired person, notifying an individual with supervisory responsibility over the impaired person, or making a referral to an assistance program.

2. Taking or initiating corrective action by way of referral of a cooperative judge or judicial employee to an assistance program may satisfy the responsibility of judicial employee who receives a report under this rule. Assistance programs have many approaches

for offering help to impaired judicial employees and judges, such as intervention, counseling, or referral to appropriate health care professionals. Depending upon the gravity of the conduct that has been reported, however, the judicial employee who receives a report may be required to take other action, such as reporting the impaired person to the appropriate supervisory or disciplinary authority or the Commission on Judicial Conduct. See Rule 2.15.

RULE 2.15
Duty to Report

A judicial employee shall report to a supervisor, administrator or judge within the judicial department any violation of the law in the course of court employment or that may affect the violator's ability to perform court duties and any violation of the applicable code of conduct by a judge, another judicial employee, or the reporting employee. Employees shall not be subject to retaliation for reporting violations if such report is made in good faith and shall cooperate and be candid and honest in any investigation and disciplinary proceeding.

Comment

1. This obligation does not prohibit reporting illegal conduct to a law enforcement agency or other appropriate authority.

2. Employees should cooperate with the Commission on Judicial Conduct and may communicate with the Commission at any time, without fear of reprisal, for the purpose of discussing potential or actual judicial misconduct. Cooperation with investigations and discipline proceedings instills confidence in judicial employees' commitment to the integrity of the judicial system and the protection of the public.

CANON 3

A JUDICIAL EMPLOYEE SHALL CONDUCT ACTIVITIES OUTSIDE OF JUDICIAL EMPLOYMENT TO MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL EMPLOYMENT.

RULE 3.1

Outside Activities in General.

(A) A judicial employee shall conduct outside activities so as to avoid a negative effect on the court or the ability to perform court duties.

(B) Except as provided by law or court rule, judicial employees shall not engage in any business, secondary employment or volunteer activity that:

- (1) Involves an organization or a private employer whose officers, employees or agents are regularly involved as a litigant, an attorney, or a witness in cases filed with the court in which the judicial employee is employed;
- (2) Is conducted during the judicial employee's scheduled working hours;
- (3) Places the judicial employee in a position of conflict with the judicial employee's official role in the judicial department;
- (4) Requires the judicial employee to appear regularly in judicial or administrative agency proceedings;
- (5) Identifies the judicial employee with the judicial department or gives an impression the employment or activity is on behalf of the judicial department; or
- (6) Requires use of court equipment, materials, supplies, telephone services, office space, computer time, or facilities.

(C) Paragraph B does not apply to court reporters appointed pursuant to A.R.S. § 12-221 when preparing transcripts pursuant to A.R.S. §§ 12-223 and 12-224. A person may serve as a volunteer and also engage in an activity described in subsection B (1) or (4). A part time employee may engage in such an activity approved by the respective clerk of superior court, presiding judge, chief judge, or chief justice of a court consistent with other provisions of this code and the Code of Judicial Conduct.

Comment

1. In order to avoid any employment or volunteer activity that is in conflict with a judicial employee's official role within the judiciary, a judicial employee should not, for example, work for a police department, public defender, or prosecutor.

2. A judicial employee may become a foster parent and may teach, lecture, or write on any subject, so long as any payment is at the prevailing rate, any presentation or document clarifies that the judicial employee is not representing the judicial department, and confidential documents and information are not disclosed.

RULE 3.2

Use of Nonpublic Information

A judicial employee shall not intentionally disclose or use nonpublic information acquired in an official capacity for any purpose unrelated to the employee's duties.

Comment

1. In the course of performing court duties a judicial employee may acquire information of commercial or other value that is unavailable to the public. The judicial employee must not reveal or use such information for personal gain or advantage or for any purpose unrelated to court duties.

2. This rule is not intended to affect a judicial employee's ability to act on information as necessary to protect the health or safety of any individual if consistent with other provisions of this code.

3. Some information received by judicial employees while performing their duties is confidential and should not be revealed. Sometimes confidential matters are revealed through innocent and casual remarks about pending or closed cases, about participants in litigation, or about juries, any of which could give attorneys, litigants and reporters an unfair advantage. Such remarks can seriously prejudice a case or harm a person's standing in the community.

RULE 3.3

Solicitation for Outside Activities

(A) A judicial employee shall not use the employee's position or office to solicit funds, but a judicial employee, other than a member of a judge's personal staff, a courtroom clerk, or a court manager, may solicit funds in connection with outside activities.

(B) A member of a judge's personal staff, a courtroom clerk, or a court manager is subject to the same limitations on solicitation as judges stated in Rule 3.7, Code of Judicial Conduct.

Comment

A judicial employee should not personally request or by action or inference solicit a subordinate to contribute funds to any organization or activity but may provide information to subordinates about a general fund-raising campaign. A member of a judge's personal staff, a courtroom clerk, or a court manager should not request or by action or inference solicit any

litigant, attorney or judicial employee to contribute funds under circumstances where their close relationship to the judge could reasonably be viewed to give weight to the request.

RULE 3.4
Gifts and Extra Compensation

(A) A judicial employee shall not solicit gifts or favors nor accept gifts or favors, other than those listed in paragraph B, from attorneys, litigants, or other persons known to do business with the court and shall not request or accept any payment in addition to the judicial employee's regular compensation for assistance given as part of official duties. This rule does not apply to a volunteer soliciting or accepting a gift from a person with whom the volunteer has not been involved in the performance of court duties.

(B) A judicial employee may accept the following:

- (1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;
- (2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending or impending would in any event require withdrawal from participation by the judicial employee under Rule 2.11;
- (3) ordinary social hospitality;
- (4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judicial employees;
- (5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judicial employees;
- (6) scholarships, fellowships, and similar benefits or awards granted on the same terms and based on the same criteria applied to other applicants;
- (7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use;
- (8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner, or other family member of a judicial employee residing in the judicial employee's household, but that incidentally benefit the judicial employee;
- (9) gifts incident to a public testimonial or other event honoring the recipient; or

- (10) invitations to the judicial employee and the judicial employee's spouse, domestic partner, or guest to attend without charge:
- (a) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or
 - (b) an event associated with a judicial employee's educational, religious, charitable, fraternal or civic activities, if the same invitation is offered to persons who are not judicial employees and who are engaged in similar ways in the activity as is the judicial employee.

Comment

1. Whenever a judicial employee accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the judge's decision or a judicial employee's action in a case. This rule prohibits the acceptance of such benefits except in circumstances where the risk of improper influence is low. Examples of improper conduct include seeking a favor or receiving a gift, or the promise of one, whether it be money, services, travel, food, entertainment, or hospitality, that could be viewed as a reward for past or future services. Receiving fees or compensation not provided by law in return for public services may be a class 6 felony or a class 1 misdemeanor under A.R.S. § 38-504 subject to the penalties in A.R.S. § 38-510.

2. Gift-giving between friends and relatives is a common occurrence, and ordinarily does not create an appearance of impropriety or cause reasonable persons to believe that a judicial employee's or judge's independence, integrity, or impartiality has been compromised. In addition, when the appearance of friends or relatives in a case would require the judicial employee's withdrawal under Rule 2.11, there would be no opportunity for a gift to influence the performance of court duties.

3. The receipt of ordinary social hospitality, commensurate with the occasion, is not likely to undermine the integrity of the judiciary. If an event is a traditional occasion for social hospitality such as a holiday party or the opening of an office and is not inappropriately lavish or expensive, it may qualify as "ordinary social hospitality." However, the receipt of other gifts and things of value from an attorney or party who has or is likely to do business with the court will be appropriate only in the rarest of circumstances.

4. Businesses and financial institutions frequently make available special pricing, discounts, and other benefits, either in connection with a temporary promotion or for preferred customers, based upon longevity of the relationship, volume of business transacted, and other factors. A judicial employee may freely accept such benefits if they are available to the general public, or if the judicial employee qualifies for the special price or discount according to the same criteria as are applied to persons who are not judicial employees. As an example, loans provided at generally prevailing interest rates are not gifts, but a judicial employee could not accept a loan from a financial institution at below-market interest rates unless the same rate was being made available to the general public for a certain period of

time or only to borrowers with specified qualifications that the judicial employee also possesses.

5. If a gift or other benefit is given to the judicial employee's spouse, domestic partner, or member of the judicial employee's family residing in the judicial employee's household, it may be viewed as an attempt to influence the judicial employee indirectly.

RULE 3.5

Reimbursement of Expenses and Waivers of Fees or Charges

(A) Unless otherwise prohibited by Rules 3.1 or other law, a judicial employee may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the judicial employee's employing entity, if the expenses or charges are associated with the judicial employee's participation in outside activities permitted by this code.

(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the judicial employee and, when appropriate to the occasion, by the judicial employee's spouse, domestic partner, or guest.

(C) This rule does not apply to reimbursement of a part time employee or a volunteer for expenses not incurred in the performance of court duties.

Comment

Educational, civic, religious, fraternal, and charitable organizations often sponsor meetings, seminars, symposia, dinners, awards ceremonies, and similar events. Judicial employees are encouraged to attend educational programs, as both teachers and participants in furtherance of their duty to remain competent. Participation in a variety of other extrajudicial activity is also permitted and encouraged by this code.

CANON 4

A JUDICIAL EMPLOYEE OR CANDIDATE FOR JUDICIAL DEPARTMENT OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

RULE 4.1

General Activities

In general, a judicial employee may participate in any political activities that do not give the impression the judiciary itself endorses political candidates or supports political causes, except when assigned to do so regarding measures to improve the law, the legal system, or the administration of justice.

Comment

1. The judiciary seeks to maintain neutrality in political matters. While judicial employees may express and act on personal opinions about political candidates and issues as other citizens, they should maintain neutrality in action and appearance when performing their duties on behalf of the judicial department, unless their positions permit political advocacy on the part of the judiciary. To this end, judicial employees should separate their political activities from employment duties.

2. As long as a judicial employee does not give the impression the judiciary itself endorses a political candidate or supports a political cause, the employee may circulate candidate nomination petitions or recall petitions; engage in activities to advocate the election or defeat of any candidate; solicit or encourage contributions to be made directly to candidates or campaign committees which are contributing to candidates or advocating the election or defeat of candidates.

3. An employee can best avoid the impression political activity is on behalf of the judiciary by not identifying himself or herself as a court employee while engaging in political activities or, if asked, explaining that the he or she is simply participating as a concerned citizen. These political activities must be conducted outside of normal working hours and away from the work place to avoid any association with the court.

RULE 4.2

Personal Staff, Courtroom Clerks, and Managers.

In addition to the other sections of this canon, members of a judge's personal staff, courtroom clerks, and court managers shall be subject to the same political limitations as judges contained in Canon 4 of the Code of Judicial Conduct, except as provided in Rule 4.3 of this code, and may not hold any elective office.

RULE 4.3
Elective Judicial Department Office

Any judicial employee may be a candidate for an elective judicial department office without resigning or taking a leave of absence as required by other rules unless the office is within the same court in which the judicial employee is employed and the incumbent of that office is seeking reelection. If elected, the judicial employee shall resign from court employment prior to assuming office. An incumbent clerk of superior court may be a candidate for the office held without resigning or taking a leave of absence. Notwithstanding paragraph B of this code section, this rule shall supersede any conflicting provision of local law but shall be subject to state law.

RULE 4.4
Elective Office In General

A judicial employee who is not limited under Rule 4.2 as a member of a judge's personal staff, a courtroom clerk, or a court manager and who is not seeking judicial department office as permitted in Rule 4.3 may be a candidate for elective office under the following conditions:

(A) Partisan. Such a judicial employee may be a candidate for partisan elective office if the judicial employee is authorized to take an unpaid leave of absence. A leave of absence must be approved by the judicial employee's appointing authority, i.e. presiding judge, chief judge, chief justice or elected clerk of court. The leave of absence must begin before the judicial employee makes a public announcement of candidacy, declares or files as a candidate with the election authority, authorizes or engages in solicitation or acceptance of contributions or support, or is nominated for election to office. The judicial employee shall publicly disclose that he or she is on a leave of absence from court employment. If elected, the judicial employee shall resign from court employment prior to assuming office.

(B) Non-partisan. Such a judicial employee may be a candidate for nonpartisan elective office without taking a leave of absence or separating from court employment if:

- (1) The judicial employee first seeks permission from the chief justice, chief judge, presiding judge of the court or clerk of superior court;
- (2) That judicial officer or clerk of superior court determines the office sought is consistent with judicial employment; and
- (3) The judicial employee otherwise complies with this code.

(C) A person may continue to serve as a volunteer while campaigning for an elective office if continued service is approved by the respective clerk of superior court or the presiding judge, chief judge, or chief justice of a court consistent with other provisions of this code and the Code of Judicial Conduct.

RULE 4.5
Workplace Activity

During scheduled work hours or at the workplace, judicial employees shall not engage in political campaign activities and shall not display literature, badges, stickers, signs, or other political advertisements on behalf of any party, political committee, agency, candidate for political office or ballot measure. Judicial employees authorized to do so may participate in approved activities regarding measures to improve the law, the legal system, or the administration of justice.

Comment

A personal vehicle parked in a space or a parking lot reserved and identified for court employees is covered by these work place limitations. Where such reserved parking exists, displaying political materials on vehicles brings political advocacy to the workplace because the parking lot is part of the workplace.

RULE 4.6
Political Pressure

Judicial employees shall not use their official authority or position, directly or indirectly, to influence or attempt to influence any other judicial employee to become a member of any political organization or to take part in any political activity.

RULE 4.7
Judicial Campaign Activity

Judicial employees, including members of a judge's personal staff, courtroom clerks and court managers, may voluntarily participate in a judge's or clerk's campaign activities and may voluntarily contribute funds to a campaign, but only through a judge's or clerk's fund-raising committee. However, judges, elected clerks of the court, and court managers or supervisors shall not require subordinate judicial employees to participate in political activities or personally receive funds from judicial employees for any political purpose.

RULE 4.8
Political Discrimination

Judicial employees shall not discriminate in favor of or against any subordinate or any applicant for judicial employment on account of permitted political activities.