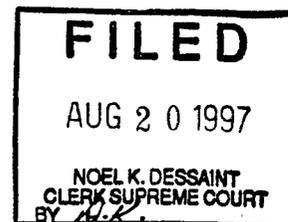


IN THE SUPREME COURT OF THE STATE OF ARIZONA



In the Matter of:)

ADOPTING A CODE)
OF CONDUCT FOR)
FOR JUDICIAL EMPLOYEES)
_____)

Administrative Order
No. 97 -41
(Replacing Administrative Order
No. 96-33)

On May 27, 1994, the Chief Justice authorized the Administrative Office of the Courts to draft and circulate a proposed Code of Conduct for judicial employees. Absent such a code, the conduct of all judicial department employees is governed by the Code of Judicial Conduct for judges. A code was drafted and circulated and approved by the Arizona Judicial Council on June 4, 1996. A revised Code was approved by the Arizona Judicial Council on June 9, 1997.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the attached revised Code of Conduct for Judicial Employees is adopted for all judicial employees in Arizona.

IT IS FURTHER ORDERED that this Code shall complement ethical standards for court employees stated in the Code of Judicial Conduct.

IT IS FURTHER ORDERED that judicial employees currently holding elective office, who would be ineligible to hold that office under this Code or the Code of Judicial Conduct, may complete their current terms of office.

IT IS FURTHER ORDERED that this order replace Administrative Order No. 96-33 entered on July 22, 1996.

Dated this 20th day of August, 1997.

THOMAS A. ZLAKET
Chief Justice

ARIZONA
CODE OF CONDUCT
FOR
JUDICIAL EMPLOYEES

Effective: August 20, 1997

ARIZONA CODE OF JUDICIAL CONDUCT
FOR JUDICIAL EMPLOYEES

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PREAMBLE

A fair and independent court system is essential to the administration of justice. Proper conduct by judicial employees inspires public confidence and trust in the courts. There are certain principles that should govern the conduct of all judicial employees.

This code of conduct provides uniform standards for the conduct of all judicial department officers and employees other than judges. It is intended to complement the Code of Judicial Conduct that governs the conduct of judges and should be interpreted in a manner 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.

DEFINITIONS

The following terms have specific meanings within the context of this code.

“Canon” is 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 five canons in this code.

“Court managers” are 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 trial courts, court managers include court administrators, chief probation officers, juvenile court directors, and any other similar staff designated by the presiding judge of each county, except the elected clerks of court. 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.

“Courtroom Clerks” are staff of the elected Clerk of the Court who are assigned to work in the courtroom with the judge.

“Judge” means any person who performs judicial functions within the judicial system as defined in the Code of Judicial Conduct.

“Judicial employee” refers to any person employed in the judicial department of this state, as defined in Article 6 Section 1 of the state Constitution, who directly or indirectly affects the operation of the judiciary.

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

“Relative” means a spouse, child, grandchild, parent, grandparent or other person with whom the judicial employee maintains a close familial relationship, including any person residing in the employee's household.

CANON 1

JUDICIAL EMPLOYEES SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

A. Independence. Judicial employees shall maintain high standards of conduct so the independence of the judiciary is preserved.

B. Integrity. Judicial employees shall maintain and observe the highest standards of integrity, honesty, and truthfulness in their professional and personal dealings.

Commentary:

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.

CANON 2

JUDICIAL EMPLOYEES SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL THEIR ACTIVITIES

A. Compliance with Law. Judicial employees shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Commentary:

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.

B. Gifts and Extra Compensation. Judicial employees shall not solicit or accept gifts or favors from attorneys, litigants, or other persons known to do business with the court and shall not request or accept any payment in addition to their regular compensation for assistance given as part of their official duties.

Commentary:

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. § 38-505 subject to the penalties in A.R.S. § 38-510. It is permissible, however, to accept food and refreshments of insignificant value when attending a conference, seminar, business lunch or meeting, and to accept or exchange gifts and other social hospitality on customary occasions, (e.g., birthdays or weddings) with friends outside the workplace. Employees may also accept awards presented in recognition of public service. The standard to keep in mind here is that employees should always conduct themselves in a manner that inspires public confidence in their role as judicial employees.

C. Abuse of Position. Judicial employees shall not use or attempt to use their positions to secure special privileges or exemptions for themselves or any other person.

Commentary:

Judicial employees should not, for example, seek or provide special consideration regarding traffic citations or parking violations; provide special treatment to particular parties or matters; discuss the merits of cases pending before the Court or be inappropriately friendly with litigants, counsel or other persons who do business with the court, and thus give the appearance of preferential treatment. To gauge the propriety of an action, employees

should consider how opposing parties and counsel are likely to view the situation. 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), § 13-2606.

D. 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.

Commentary:

A court manager's employment of relatives may be a class 2 misdemeanor under A.R.S. § 38-481.

E. Use of Public Property. Judicial employees shall not use public funds, property or resources wastefully or for any private purpose not authorized by judicial or other administrative authorities.

Commentary:

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.

F. Former Employees. Judicial employees shall not do business with a former judicial employee:

- who held a position involving substantial discretion over that aspect of the court's activities, and
- who left the court's employment during the preceding 12 months, and
- whose participation could harm the interests of the judiciary or cause a perception of favoritism.

Commentary:

Abuse of former employment may be a class 6 felony under A.R.S. § 38-504(A).

CANON 3

JUDICIAL EMPLOYEES SHALL PERFORM THEIR DUTIES IMPARTIALLY AND DILIGENTLY

A. Professionalism. Judicial employees shall be patient, prompt and courteous to litigants, jurors, witnesses, lawyers and others who come in contact with the court.

B. Impartiality. Judicial employees shall perform their duties impartially, and shall not be influenced by kinship, social or economic status, political interests, public opinion or fear of criticism or reprisal.

Commentary:

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

C. Prejudice. Judicial employees shall perform their duties without bias or prejudice, and shall not manifest by words or conduct bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status.

D. Information and Records. Judicial employees, when authorized, shall furnish accurate, timely information and shall provide access to public court proceedings and records according to established procedures. A judicial employee shall not disclose any confidential information received in the course of official duties, except as required in the performance of such duties, or use such information for personal gain or advantage.

Commentary:

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. Abuse of confidential information by a current or former employee may be a class 6 felony under A.R.S. § 38-504B.

E. Legal Assistance. Judicial employees may assist citizens in identifying available procedural options and in understanding and complying with court procedures. Judicial employees shall not advise a particular course of action.

Commentary:

Employees may assist citizens, consistent with the court's resources, with matters within the scope of their responsibilities and knowledge. This assistance may include providing information contained in court records; furnishing examples of forms or pleadings;

explaining court rules, procedures, practices, and due dates; and helping to complete forms with factual information provided by a citizen. Although a person may be informed of the options for addressing a matter, judicial employees should not advise citizens whether to take a particular course of action or attempt to answer questions outside their knowledge and experience. In performing their official duties, employees should not recommend the names of private attorneys to the public unless the employee works in a court-approved lawyer-referral program, but may refer members of the public to bar associations or legal aid organizations.

F. Education. Judicial employees shall comply with judicial education requirements and maintain any licensing or certification required for their positions.

G. Communication with Judges. Judicial employees shall not communicate personal knowledge about the facts of a pending case to the judge assigned to the case and shall not make or repeat remarks about a case pending before an Arizona court that might affect the fairness or outcome of the proceeding.

I. Duty to Report. Judicial employees shall report to a supervisor, administrator, or judge within the judicial department any violation of the law or this code by another judicial employee. Employees shall not be subject to retaliation for reporting violations if such report is made in good faith.

Commentary:

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

CANON 4

JUDICIAL EMPLOYEES SHALL SO CONDUCT THEIR OUTSIDE ACTIVITIES AS TO MINIMIZE CONFLICTS WITH THEIR EMPLOYMENT RESPONSIBILITIES

A. General Activities. Judicial employees shall conduct their outside activities so as to avoid a negative effect on the court or their ability to perform their duties.

B. Financial Activities. This section 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. Except as provided by law or court rule, judicial employees shall not engage in any business activity or secondary employment that:

(1) Involves an organization or a private employer that regularly conducts business with the court;

(2) Is conducted during the employee's normal working hours;

(3) Places the employee in a position of conflict with his or her official role in the judicial department;

(4) Requires the employee to appear regularly in judicial or administrative agency proceedings;

(5) Identifies the 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.

Commentary:

In order to avoid any employment 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. Judicial employees may become foster parents, 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.

C. Conflict of Interest. Judicial employees 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 their employment.

(1) Judicial employees shall inform the appropriate supervisor of any potential conflict of interest involving their duties.

(2) A member of a judge's personal staff and the 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.

(3) Judicial employees shall withdraw from participation in a court proceeding or court business in which they have a personal, business, or family interest that may actually or appear to influence the outcome of the court proceeding or business.

Commentary:

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 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.

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.

D. Solicitation. Judicial employees shall not use their positions or offices to solicit funds, but judicial employees, other than members of a judge's personal staff, courtroom clerks, or court managers, may solicit funds in connection with outside activities.

Commentary:

Judicial employees should not personally request subordinates to contribute funds to any organization or activity but may provide information to them about a general fund-raising campaign. A member of a judge's personal staff, the courtroom clerk, or a court manager should not request any judicial employee to contribute funds under circumstances where their close relationship to the judge could reasonably be viewed to give weight to the request.

CANON 5

JUDICIAL EMPLOYEES SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITIES

A. General Activities. In general, judicial employees 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.

Commentary:

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.

B. 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 5 of the Code of Judicial Conduct, and may not hold any elective office.

C. Elective Office. Incumbent elected clerks of the court may be candidates for their offices without taking a leave of absence and are not subject to the provisions of this section. Judicial employees who are not members of a judge's personal staff, courtroom clerks, or court managers may be candidates for elective office under the following conditions:

(1) Partisan. Such judicial employees may be candidates for partisan elective office if the judicial employee is authorized to take an unpaid leave of absence. The leave of absence must begin prior to any public declaration of an intention to seek office, including the filing of campaign papers, and prior to any fund-raising for the judicial employee's campaign. 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.

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

- a. the judicial employee first seeks permission from the Chief Justice, Chief Judge, Presiding Judge of the Court or Clerk of Court,
- b. that judicial officer or clerk of court determines the office sought is consistent with judicial employment,
- c. the judicial employee otherwise complies with this code.

D. 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, or candidate for political office. 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.

E. 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.

F. 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.

G. 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.