

Model Code of Conduct for Judicial Employees in the State of Nevada



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**Judicial Council of the State of Nevada
Court Administration Committee**

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Judicial Employees in the State of Nevada**

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Preface:

A fair and independent court system is essential to the administration of justice, and a necessary part of that system is the proper conduct by judicial employees who inspire public confidence and trust in this country's court system.

This Model Code of Conduct applies to all employees of the Judicial Branch in the State of Nevada except the justices, and judicial officers¹. Contractors and other non-employees who serve the judiciary are not covered by this Code, but appointing authorities may impose these or similar ethical standards on such non-employees, as deemed appropriate.

The standards contained within this Code do not preclude the adoption of more rigorous standards by law, court order, or local rule. Violations of this Code may be enforced within the local jurisdiction and in the same manner as violations of local personnel rules that apply to judicial employees. In certain cases, it is understood that judicial employees may be bound by local court and/or local government personnel rules and procedures and each chief judge or appointing authority may have to ascertain the prioritization of this Code when or if certain conflicts arise between the rules of the local government and this Code.

The original Model Code was drafted by the Court Administration Committee and subsequently approved by the Judicial Council for the State of Nevada in March 2004. The current effort (2013) began with recognition of the need to update the Model Code to include social media. Additionally, the Court Administration Committee compared the Model Code with the current Model Code from the National Association for Court Management, which resulted in reorganization and additions to the previous version.

Definitions

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

Appointing Authority is normally a judge or appointed designee, such as a Court Administrator, County Clerk, or Chief Deputy Clerk.

¹ Justices and Judicial Officers in the State of Nevada are covered under the Nevada Code of Judicial Conduct.

Judicial employee is any person employed in support of the Judicial Branch in the State of Nevada who directly affects the operation of the judiciary. Judicial Employees may work under the direct or indirect supervision of the judge, court administrator, or elected clerk of the court.

Personal staff means any employee or person who is appointed by and reports directly to the judge (e.g., personal staff may include judicial assistants and law clerks).

Social media means any activity on the Internet that involves posting by the judicial employee, such as blogging; posting comments to any website; posting photos, posting video, other graphics, or multimedia materials; posting documents or links; posting status updates, comments, or links; posting materials or links, or sharing or participating in any other way on a social networking site like Facebook; micro-blogging, for example through Twitter; contributing to a wiki; and so on. These guidelines do not target messages sent through email or a social networking site directed to individuals or to small groups of personal friends, except as it relates to confidentiality.

CANON 1

UPHOLDING THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY AND AVOIDING IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES

1.1 Upholding the Integrity and Independence of the Judiciary While Performing Court Duties

A judicial employee shall uphold the integrity and independence of the judiciary. An independent and honorable judiciary is indispensable to justice in our society. A judicial employee shall personally observe high standards of conduct so that the integrity and independence of the judiciary are preserved and the judicial employee's office reflects a devotion to serving the public. Judicial employees shall require adherence to such standards by personnel subject to their direction and control. The provisions of this Code shall be construed and applied to further these objectives. The standards of this Code shall not affect or preclude other more stringent standards required by law, by court order, or by an appointing authority. Judicial employees shall encourage respect for the law and the administration of justice.

A judicial employee shall faithfully carry out all appropriately assigned duties striving at all times to perform the work diligently, efficiently, equitably, thoroughly, courteously, honestly, truthfully, and with transparency. A judicial employee shall properly carry out issued court orders and rules, not exceeding a judicial employee's authority.

1.2 Avoiding Impropriety of the Appearance of Impropriety in All Activities

A judicial employee shall not engage in any activity that would put into question the propriety of the judicial employee in carrying out the duties of the office. A judicial employee shall not allow family, social, or other relationships to influence official conduct or judgment. A judicial employee shall not lend the prestige of the office to advance or to appear to advance the private interests of themselves or others. A judicial employee shall not use public office for private gain.

In performing the duties prescribed by law, by resolution of the Judicial Council of the State of Nevada, by court order, or by the judicial employee's appointing authority, the following standards apply:

- A. A judicial employee shall respect and comply with the law and these canons.
- B. A judicial employee shall be faithful to professional standards and maintain competence in the judicial employee's profession.

- C. A judicial employee shall refrain from publicly endorsing any product or service in their official capacity, including through social media.

1.3 Fairness

A judicial employee shall diligently discharge the responsibilities of the office in a prompt, efficient, nondiscriminatory, fair, and professional manner.

1.4 Respect of Others

A judicial employee shall be patient, dignified, respectful, and courteous to all persons with whom the judicial employee deals in an official capacity, including the public, and shall require similar conduct of personnel subject to the judicial employee's direction and control.

1.5 Involvement in Actions Before a Court

A judicial employee or a member of a judge's personal staff shall inform the appointing authority of any circumstances or activity of the staff member that might serve as a basis for disqualification of either the staff member or the judge, in a matter pending before the court.

1.6 Avoiding Privilege

A judicial employee shall never influence the assignment of cases, or perform any discretionary or ministerial function of the court in a manner that improperly favors any litigant or attorney, nor shall a judicial employee imply that he or she is in a position to do so.

1.7 Assisting Litigants

Nevada Supreme Court Rule 44 authorizes judicial employees to provide information to pro per litigants under certain circumstances.

Judicial employees who are employed by a governmental entity and working within a governmental environment and who are not supervised by a licensed Nevada attorney are authorized to do the following:

- A. Encourage persons to obtain legal advice from a licensed Nevada attorney outside of the qualifying public entity;
- B. Provide information about available pro bono, free/low cost civil legal services, legal aid programs and lawyer referral services;
- C. Provide information about available forms/pleadings/instructions without providing advice or recommendations as to any specific course of action;

- D. Engage in oral communications to assist persons in the completion of blanks on forms;
- E. Provide orally or in writing definitions of legal terminology from widely-accepted legal dictionaries or other dictionaries without advising whether or not a particular definition is applicable to the situation of the requesting person;
- F. Provide orally or in writing citations, constitutions, statutes, administrative/court rules, and case law without providing legal research as defined below or advising whether or not a particular provision is applicable to the situation of the requesting person;
- G. Provide information on docketed cases;
- H. Provide general information about court process, procedure and practice;
- I. Provide information about mediation, parenting courses and/or courses for children of divorcing parents;
- J. Provide orally or in writing information on local court rules and/or administrative orders; and
- K. Provide general information about community resources.

No person or entity described in this rule and not licensed to practice law in Nevada or being supervised by a Nevada licensed attorney may do any of the following:

- A. Provide orally or in writing any interpretation by application of the following to specific facts: legal terminology, constitution, statutes, or administrative/court rules or case law;
- B. Provide orally or in writing information that must be kept confidential by statute, administrative/court rule or case law;
- C. Create content on documents not provided by self-represented litigants;
- D. Perform direct legal research for any litigant by applying the law to specific facts, expressing an opinion regarding the applicability of any constitutional provisions, statutes, administrative/court rules or case law to the particular circumstances of the requesting person; and
- E. Lead persons to believe they are the legal representatives of anyone in any capacity or induce the public to rely on them for legal advice.

CANON 2

PERFORMING THE DUTIES OF POSITION IMPARTIALLY AND DILIGENTLY

2.1 Independent Judgment and Conflict of Interest

A judicial employee shall avoid conflicts of interest in the performance of official duties. A conflict of interest arises when a judicial employee knows that he or she (or the spouse, minor child residing in the judicial employee's household, or other close relative of the judicial employee) might be so personally or financially affected by a matter that a reasonable person with knowledge of the relevant facts would question the judicial employee's ability to properly perform official duties in an impartial manner.

(1) Certain judicial employees, because of their direct relationship to a judge or the nature of their duties, are subject to the following restrictions:

(a) A staff attorney or law clerk shall not perform any official duties in any matter with respect to which such person knows that:

(i) He or she has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(ii) He or she served as an attorney or staff attorney in the matter in controversy, or an attorney with whom he or she previously practiced law had served (during such association) as a lawyer concerning the matter, or he, she, or such lawyer has been a material witness;

(iii) He or she, individually or as a fiduciary, or the spouse or minor child residing in his or her household, has a financial interest in the subject matter in controversy or is a party to the proceeding;

(iv) He or she, a spouse, or a person related either within the third degree of relationship, or the spouse of such person (A) is a party to the proceeding, or an officer, director, or trustee of a party; (B) is acting as a lawyer in the proceeding; (C) has an interest that could be substantially affected by the outcome of the proceeding; or (D) is likely to be a material witness in the proceeding;

(v) He or she has served in governmental employment and in such capacity participated as counsel, advisor, or material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy.

(b) A judicial employee whose assignment with a particular judge is reasonably perceived as being comparable to a member of the judge's personal staff, shall not perform any official duties in any matter with respect to which such secretary, court clerk, or court reporter knows that he or she, a spouse, or a person related to either within the third degree of relationship, or the spouse of such person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Has an interest that could be substantially affected by the outcome of the proceeding; or

(iv) Is likely to be a material witness in the proceeding; provided, however that when the foregoing restriction presents undue hardship, the judge may authorize the judicial employee to participate in the matter if no reasonable alternative exists and adequate safeguards are in place to ensure that official duties are properly performed. In the event the judicial employee possesses any of the foregoing characteristics and so advises the judge, the judge shall also consider whether the Canons of Judicial Ethics for Nevada Judges may require the judge to recuse.

(c) A probation or pretrial services officer who is a judicial employee shall not perform any official duties in any matter with respect to which the probation or pretrial services officer knows that:

(i) He or she has a personal bias or prejudice concerning a party;

(ii) He or she is related within the third degree of relationship to a party to the proceeding, or to an officer, director, or trustee of a party, or to a lawyer in the proceeding;

(iii) He or she, or a relative within the third degree of relationship, has an interest that could be substantially affected by the outcome of the proceeding.

2.2 Personal Relationships

A judicial employee shall not engage in nepotism prohibited by law or local rule. When a judicial employee knows that a conflict of interest may be presented, the judicial employee shall promptly inform his or her appointing authority. The appointing authority, after determining that a conflict or the appearance of a conflict of interest exists, shall take appropriate steps to restrict the judicial employee's performance of official duties in such matter so as to avoid a conflict or the appearance of a conflict of interest. A judicial employee shall observe any restrictions imposed by his or her appointing authority in this regard.

Where circumstances dictate that one must work directly with a family member, a judicial employee shall report the circumstances to an appropriate authority, regularly assess the situation, and take any needed remedial action at the earliest time practicable.

2.3 Misconduct of Others

A judicial employee should expect fellow professionals to abide by the canons set out in the code. A judicial employee shall report to the appropriate authority the behavior of any judicial employee who violates this code including, but not limited to, potential conflicts of interest involving one's duties and attempts to inappropriately influence one in performing one's duties.

2.4 Attempts at Influence

A judicial employee shall immediately report to the appropriate authority any attempt to compel one to violate these canons.

2.5 Properly Maintain Records

A judicial employee shall not falsify records or reports or intentionally delete or alter information. This includes, but is not limited to, inappropriately destroying, altering, falsifying, mutilating, backdating, or failing to make required entries on any records within the court's control.

2.6 Confidentiality

Judicial employees shall take special care to preserve the confidentiality of the court's work product. Work product includes, but is not limited to, legal memoranda, preliminary dispositions, and discussions of pending court matters by a judge, law clerk, clerk's office staff attorney, or court employee. Work product also includes legal research performed by the law library staff for the court, and administrative matters such as preliminary budget discussions. Any work product of the court that is not a matter of public record is confidential.

- A. The work product of a former employee remains confidential. While a staff attorney may use a legal memorandum written by him or her as a writing sample, an opinion or an order, either in draft or final form, may not be used as a writing sample or claimed by a former employee as his or her work product. A law clerk must first obtain the approval of his or her judge before using any legal memorandum as a writing sample.
- B. A law clerk or staff attorney shall not disclose to persons who are not employees of the court the extent of his or her involvement in the decision-making process of any specific matter or proceeding.
- C. Judicial employees shall refrain from use of any social media to post confidential information including but not limited to the likely outcome of a pending case, confidential case processing procedures, and other non-public information, and abide by any local court policy regarding social media.

2.7 Maintain Discretion

A judicial employee shall avoid making public comment on the merits of a pending or impending action and shall require similar restraint by personnel subject to the judicial employee's direction and control.

This proscription does not extend to public statements made in the course of official duties or to the explanation of court procedures. A judicial employee shall never disclose any confidential information received in the course of official duties except as required in the performance of such duties, nor shall a judicial employee employ such information for personal gain. A former judicial employee shall observe the same restrictions on disclosure of confidential information that apply to a current judicial employee, except as modified by the appointing authority. These limitations include social media.

2.8 Proper Use of Public Resources

A judicial employee shall use the resources, property, and funds under one's official control judiciously and in accordance with prescribed procedures.

CANON 3

CONDUCTING OUTSIDE ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH OFFICIAL POSITION

3.1 Outside Business

Engaging in outside activities, a judicial employee shall avoid the risk of conflict with official duties, shall avoid the appearance of impropriety, and shall comply with the disclosure requirements.

A judicial employee's activities outside of official duties shall not detract from the dignity of the court, interfere with the performance of official duties, or adversely reflect on the operation and dignity of the court or office the judicial employee serves. Subject to the foregoing standards and the other provisions of this Code, a judicial employee may engage in such activities as civic, charitable, religious, professional, educational, cultural, avocational, social, fraternal, and recreational activities, and may speak, write, lecture, and teach. Caution should be used with regard to social media and these activities. If such outside activities concern the law, the legal system, or the administration of justice, the judicial employee shall first consult with the appointing authority to determine whether the proposed activities are consistent with the foregoing standards and the other provisions of this Code.

3.2 Compensation and Post-Employment Restrictions

A judicial employee shall refrain from outside financial and business dealings that tend to:

- adversely affect court operations,
- detract from the dignity of the court,
- interfere with the proper performance of official duties,
- exploit the position, or associate the judicial employee in a substantial financial manner with lawyers or other persons likely to come before the judicial employee or the court or office the judicial employee serves.

However, court reporters are not prohibited from providing reporting services for compensation to the extent provided by statute and by the court. A member of the judge's personal staff shall consult with the appointing judge concerning any financial and business activities that fail to conform to the foregoing standards or that the judge concludes may otherwise give rise to an appearance of impropriety.

During judicial employment, a law clerk or staff attorney may seek and obtain employment to commence after the completion of the judicial employment. However, the law clerk or staff attorney shall first consult with the appointing authority and observe any restrictions imposed by the appointing authority. If any law firm, lawyer, or entity with whom a law clerk or staff attorney has been employed or is seeking or has obtained future

employment appears in any matter pending before the appointing authority, the law clerk or staff attorney shall promptly bring this fact to the attention of the appointing authority.

A. Practice of Law. A full-time judicial employee who is otherwise qualified to practice law in the State of Nevada shall not engage in the practice of law for outside compensation, however, a judicial employee may act pro se, may perform routine legal work incident to the management of the personal affairs of the judicial employee or a member of the judicial employee's family, and may provide pro bono legal services in civil matters, so long as such pro se, family, or pro bono legal work does not present an appearance of impropriety, does not take place while on duty or in the judicial employee's workplace, and does not interfere with the judicial employee's primary responsibility to the office in which the judicial employee serves, and further provided that:

- (1) In the case of pro se legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings);
- (2) In the case of family legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings) and does not involve the entry of an appearance in court;
- (3) In the case of pro bono legal services, such work
 - (a) Is done without compensation;
 - (b) Does not involve the entry of an appearance in any federal, state, or local court or administrative agency;
 - (c) Does not involve a matter of public controversy, an issue likely to come before the judicial employee's court, or litigation against federal, state or local government; and
 - (d) Is reviewed in advance with the appointing authority to determine whether the proposed services are consistent with the foregoing standards and the other provisions of this Code.

Judicial employees may also serve as uncompensated mediators or arbitrators for nonprofit organizations, subject to the standards applicable to pro bono practice of law, as set forth above, and the other provisions of this Code.

A judicial employee shall ascertain any limitations imposed by the appointing judge or the court on which the appointing judge serves concerning the practice of law by a former judicial employee before the judge or the court and shall observe such limitations after leaving such employment.

B. Compensation and Reimbursement. A judicial employee may receive compensation and reimbursement of expenses for outside activities provided that receipt of such compensation and reimbursement is not prohibited or restricted by this Code, and other applicable law, provided that the source or amount of such payments does not influence or give the appearance of influencing the judicial employee in the performance of official duties or otherwise give the appearance of impropriety.

Notwithstanding the above, a judicial employee shall not receive any salary, or any supplementation of salary, as compensation for official government services from any source other than by a governmental entity provided, however, that court reporters are not prohibited from receiving compensation for reporting services to the extent permitted by statute and by the court.

3.3 Solicitation of Funds and Avoiding Gifts

A judicial employee may solicit funds in connection with outside activities, subject to the following limitations:

- A. A judicial employee shall not use or permit the use of the prestige of the office in the solicitation of funds.
- B. A judicial employee shall not solicit subordinates to contribute funds to any such activity but may provide information to them about a general fund-raising campaign. A member of the judge's personal staff shall not solicit any court personnel to contribute funds to any such activity under circumstances where the staff member's close relationship to the judge could reasonably be construed to give undue weight to the solicitation.
- C. A judicial employee shall not solicit or accept funds from lawyers or other persons likely to come before the judicial employee or the court or office the judicial employee serves, except as an incident to a general fund-raising activity. Care should be used with social media and fundraising in this manner also.
- D. A judicial employee shall not solicit or accept a gift from anyone seeking official action from or doing business with the court or other entity served by the judicial employee, or from anyone whose interests may be substantially affected by the performance or nonperformance of official duties, except that a judicial employee may accept a gift as permitted by local rule or procedure. A judicial employee shall endeavor to prevent a member of a judicial employee's family residing in the household from soliciting or accepting any such gift except to the extent that a judicial employee would be permitted to do so by local rule or procedure.
- E. A judicial employee shall report the value of gifts to the extent a report is required by other applicable law, local rule, or procedure.

3.4 Financial Disclosure

A judicial employee shall dutifully disclose all financial interests and dealings required by law, rule, or regulation.

CANON 4

REFRAINING FROM INAPPROPRIATE POLITICAL ACTIVITY

4.1 Refraining from Inappropriate Political Activity

A judicial employee retains one's right to vote and is encouraged to exercise it as a part of citizenship.

Judicial employees may engage in political activity if such activity does not tend to reflect adversely on the dignity or the impartiality of the court or office and does not interfere with the proper performance of official duties. A judicial employee may not engage in such activity while on duty or in the judicial employee's workplace and may not use any court or local government resources in connection with such activity. Engaging in any political activity is done strictly as a private citizen and only in accordance with state law or court rules.

A judicial employee shall not use one's position or title within the court system to influence others.

Unless a judicial employee is elected to one's court position, one shall campaign during non-work hours or take an unpaid leave of absence upon declaring one's intent to run for office.

If elected, a judicial employee shall resign one's post with the court unless one is holding a political office that clearly does not hold a conflict of interest, nor does it interfere with one's ability to perform one's court duties.

Caution is urged with regard to the use of social media and political activity. Judicial employees should consider impacts related to all canons with regard to social media and political activities.