

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	Type of Action Requested:	Subject:
March 6, 2007	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Final Report of the Task Force on Legal Advice- Legal Information

FROM: Fran Johansen, Court Specialist and Staff to the Task Force on Legal Advice – Legal Information Guidelines

PRESENTER(S): Hon. Kevin Kane, Task Force Chair and Fran Johansen

DISCUSSION:

AO 2006-40 established the Task Force to develop Legal Advice – Legal Information Guidelines to address the growing trend of self-represented litigants in the court. The Guidelines will provide court personnel a clearer distinction between legal advice and legal information to allow them to provide court customers appropriate and meaningful assistance. The Task Force will present the proposed Guidelines for adoption by the AJC, and will present the Training Manual, Question and Response Handbook, and Glossary for approval. The Task Force will also request the approval and adoption of an implementation plan by AJC in March 2007.

RECOMMENDED COUNCIL ACTION: The Task Force on Legal Advice – Legal Information request AJC to approve adoption of the proposed Code 1-303, Training Manual and implementation plan.

**Task Force on
Legal Advice - Legal Information**

Final Report and Recommendations

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EXECUTIVE SUMMARY

A vital mission of the Arizona Supreme Court is to provide meaningful access to the courts. Essential to this mission is ensuring that Arizona consumers of court services are knowledgeable. Chief Justice Ruth McGregor advises in *Good to Great, A Strategic Agenda for Arizona's Courts* "To ensure that citizens have meaningful access and an opportunity to be heard, Arizona courts must develop alternative and more effective methods to provide assistance to litigants so that they are not denied justice because they lack the benefit of counsel." To achieve this goal, the court system has an obligation to provide the public with as much information and assistance as possible about the courts and court procedures. There are difficult challenges facing those who provide information and assistance to those who represent themselves for self-represented customers often seek more substantive legal assistance.

The Task Force was established by Administrative Order No. 2006-40 on May 3, 2006, to address the request to develop alternative and effective methods to provide assistance to court customers, specifically the concern about what information court personnel can provide to litigants. The Task Force has members who represent the judicial districts and court types statewide. This report sets forth the efforts of the Task Force and its recommendations.

The Order mandated "that the Legal Advice – Legal Information Guidelines Task Force established to review materials and information gathered from other states that have adopted policy statements, develop standards adopting authoritative distinctions between legal information and legal advice for guidance of court personnel, determine the best method(s) for implementation of the proposed standards in Arizona's courts that will promote consistent quality service, and prepare a final report and recommendations to be presented to the Arizona Judicial Council for adoption."

The Task Force reviewed the work of authorities, the legal advice – legal information guidelines and directives from every state that has guidelines. In addition, they reviewed the training materials and manuals from those states. The Task Force then created guidelines and additional materials to assist court personnel and determined a proposal for implementation of those standards in Arizona courts.

The Task Force proposes and recommends the following components of a uniform statewide "Legal Advice - Legal Information" program:

- The Guidelines should be approved and incorporated into the Court's Code of Conduct for Court Staff.
- The Signage should be approved and the Supreme Court issue an order requiring the signage be prominently displayed at court service counters, self-service centers, and law libraries open to the public.
- The manual for court employees that includes policy, guidelines, a glossary of common terms, and a question and response handbook should be available to court personnel and be included with their training.
- New employee orientation should be required to include a Legal Advice - Legal Information component and current employees be regularly required to participate in a review program.
- The manual, glossary, and questions and response handbook, as well as interactive review modules should be available for court personnel on the intranet.

INTRODUCTION

Arizona court clerks, court reporters, judicial assistants, bailiffs, librarians, and other court personnel serve on the front lines of Arizona's courthouses. Viewed as an important source of information, these court employees are a vital link between the courts and the public. Court customers rely upon court personnel to provide information about cases, judges, court procedures and other legal concerns. The growing number of self-represented litigants poses even greater challenges to court personnel because their questions are more case-specific.

The Arizona Supreme Court has recognized the vital importance of court personnel providing information about the courts and court procedures to ensuring meaningful access to the courts; however, the courts must balance this against the obligation to be neutral and impartial. While court personnel are admonished not to engage in the practice of law, they are being asked to use their knowledge about the courts and court procedures to facilitate access to the legal process.¹

Balancing these obligations can be both frustrating and problematic in the absence of training and guidelines to help court personnel distinguish between legal advice and legal information. Court personnel have been trained in an informal haphazard manner with guidelines and examples gleaned from other state programs and those members that have participated in the training have found it helpful. Yet, there is no comprehensive training program that specifically addresses court personnel concerns about the inherent difficulty of responding to court customers' questions without violating rules of impartiality or neutrality or engaging in the unauthorized practice of law.

The Task Force was established in May 2006 to address these concerns. At its first meeting on June 16, 2006, the committee established the following goals or mission:

- A. Develop standards adopting authoritative distinctions between legal advice and legal information for guidance of court personnel.
- B. Develop useful guidelines and written policies for court personnel.
- C. Publish, post, and disseminate these guidelines and policies in appropriate areas.
- D. Recommend and develop training programs that instruct court personnel in the skills needed to effectively provide information and access to the courts and to distinguish between legal advice and legal information.

This report discusses the work of the Task Force and makes recommendations implementing a comprehensive program that addresses court personnel concerns about providing information without giving legal advice.

¹ Although Arizona Rules of Court define "practice of law" and "unauthorized practice of law," the Rules do not define "legal advice."

MEMBERSHIP

The Task Force is ethnically diverse with representation from limited jurisdiction courts and superior courts. The members also represent the various roles of employees within the court system, including those with experience as administrator, judge, judicial assistant, clerk, trainer, educator, librarian and jury clerk. The areas of the law, including family law, probate law, criminal law, landlord-tenant law, and juvenile law, are all represented on the Task Force. Furthermore, the membership is geographically diverse with members from both large and small judicial districts.

BACKGROUND AND DISCUSSION

The Task Force met for its first meeting on June 16, 2006. Each member received a binder that included introductory materials, court guidelines from other jurisdictions, training materials from Arizona and other states, articles written by authorities on legal advice - legal information issues, and questions and answers from jurisdictions in Arizona as well as other states.

The Task Force divided itself into three work groups, each designated with a specific task:

- Creating the guidelines
- Developing helpful questions and responses
- Recommending implementation methods.

The three groups met independently through the month of July and brought the results of their work to the second meeting on August 11, 2006. The Guidelines Workgroup created guidelines to present to the Task Force and continued to make revisions and additions consistent with the discussions at the August 11 meeting. The Question and Response Workgroup formulated and revised questions and responses in preparation for the September meeting.

The workgroups continued to meet throughout the month of September. The Guidelines Workgroup revised the guidelines document consistent with suggestions from the August Task Force Meeting. The Question and Response Workgroup also met through the month of September to add and revise questions and responses which were organized and presented to the Task Force at the September 22nd meeting

The Task Force met again on October 4 and 25, 2006, during which time they reviewed and offered suggestions for the materials prepared by the work groups and implemented a procedure for proofreading the products. The Task Force approved the recommendations of the members.

The Task Force has presented the materials to the Commission on Minorities, LJC, COSC, Superior Court Presiding Judges and AJC and considered and incorporated the recommendations from each of the groups. The Commission on Minorities offered the suggestion that the signage and other appropriate documents also be available in languages other

than English. The Task Force recommends that the signage be available in Spanish. There is a concern from the Task Force that the signage in a language other than English may create the expectation for interpretation services that are not always available in some Arizona courts. For that reason, the Task Force suggests that Spanish signage be posted at the discretion of each court. Although the availability of interpreters issue is not an assignment of this Task Force, it encourages the courts to allocate resources to address this concern.

RECOMMENDATIONS:

The Task Force focused on court personnel's role in providing meaningful access, but this responsibility ultimately rests with the court itself. Court personnel will succeed in using the products of the Task Force only to the extent that each court commits to implementing them. Also, these products are but one tool to provide access. The Task Force strongly recommends that each court continually develop additional tools to help customers access the courts, such as a self-service center, forms, instructional videos, resource lists, clinics, and the like.

The Task Force is proposing and recommending the following components of a uniform statewide "Legal Advice - Legal Information" program:

- The Guidelines should be approved and incorporated into the Court's Code of Conduct for Court Staff.
- The Signage should be approved and the Supreme Court issue an order requiring the signage be prominently displayed at court service counters, self-service centers, and law libraries open to the public.
- The manual for court employees that includes policy, guidelines, glossary of common terms, and question and response handbook should be available to court personnel and be included with their training.
- New employee orientation should be required to include a Legal Advice - Legal Information component and current employees should be regularly required to participate in a review program.
- The manual, glossary, and questions and helpful response, as well as interactive review modules should be available for court personnel on the intranet.

Appendices

Appendix A	Task Force Members
Appendix B	Proposed Guidelines for Court Personnel to be incorporated as Canon 3 in the Judicial Code of Conduct
Appendix C	Proposed Signage
Appendix D	Proposed Manual on Legal Advice – Legal Information Guidelines
Appendix E	Proposed Questions and Response Handbook
Appendix F	Proposed Glossary for Court Personnel
Appendix G	Training Plan

Section 1-303

Canon 3

E. Customer Assistance. Judicial employees shall assist the public to access the courts by providing prompt and courteous customer service and accurate information while remaining neutral and impartial and avoiding the unauthorized practice of law. Consistent with the resources of each court as reflected in its policy and within the scope of a judicial employee's responsibilities and knowledge, judicial employees shall:

1. Explain how to accomplish various actions within the court system and provide information about court procedures without recommending a particular course of action;
2. Answer questions about court policies and procedures without disclosing confidential or restricted information as provided in Canon 3(d);
3. Explain legal terms without providing legal interpretations by applying legal terms and concepts to specific facts;
4. 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;
5. Provide public case information without providing confidential case information as provided in Canon 3(d);
6. Provide information on various procedural options without giving an opinion about what remedies to seek or which option is best;
7. Cite statutes, court rules or ordinances a judicial employee is expected to know in order to perform the employee's job without performing legal research for court customers;
8. 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
9. 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.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet

Section 1-303: Code of Conduct for Judicial Employees

- 1. Effect of the proposal:** This code section replaces AO 97-41 and provides uniform standards for the conduct of all judicial employees.
- 2. Significant new or changed provisions:** This proposal is a conversion of the Code of Conduct for Judicial Employees from administrative order to administrative code section with no substantive change other than in Canon 3E formerly entitled “Legal Assistance” and proposed to be entitled “Customer Assistance”. The new Canon 3E, proposed by the Task Force on Legal Advice – Legal Information, replaces the current Canon 3E and associated commentary. The proposed amendment to the code of conduct implements recommendations of the task force.
- 3. Committees actions and comments:** The Limited Jurisdiction Committee reviewed and accepted the recommendations of the Task Force and the proposed code section amendment.
- 4. Controversial issues:** None
- 5. Recommendation:** Approve proposed code section.

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

A. Definitions. In this section, the following definitions apply:

"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 five 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 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" means staff of the elected clerk of the court who are assigned to work in the courtroom with the judge.

"Judge" means any person who serves as an officer and performs judicial functions within the judicial system.

"Judicial employee" means any person employed in the judicial department of this state, as defined in Az. Const. Art. 6 § 1, 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.

B. Purpose and Intent. 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.

C. Standards of Conduct and Commentary.

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. § 38-405 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) and 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:
1. Who held a position involving substantial discretion over that aspect of the court's activities; and
 2. Who left the court's employment during the preceding twelve months; and
 3. 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. Customer Assistance. Judicial employees shall assist the public to access the courts by providing prompt and courteous customer service and accurate information while remaining neutral and impartial and avoiding the unauthorized practice of law. Consistent with the resources of each court as reflected in its policy and within the scope of a judicial employee's responsibilities and knowledge, judicial employees shall:
1. Explain how to accomplish various actions within the court system and provide information about court procedures without recommending a particular course of action;
 2. Answer questions about court policies and procedures without disclosing confidential or restricted information as provided in Canon 3(d);
 3. Explain legal terms without providing legal interpretations by applying legal terms and concepts to specific facts;
 4. 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;
 5. Provide public case information without providing confidential case information as provided in Canon 3(d);
 6. Provide information on various procedural options without giving an opinion about what remedies to seek or which option is best;
 7. Cite statutes, court rules or ordinances a judicial employee is expected to know in order to perform the employee's job without performing legal research for court customers;
 8. 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
 9. 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.
- 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.
- H. **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 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 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; and
 - 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.