

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO. 11.007-9/92

IN RE: CODE OF CONDUCT FOR NONJUDICIAL
COURT EMPLOYEES

_____ :

The American Judicature Society's Model Code of Conduct, which is attached, is herewith adopted as a recommended guideline for all nonjudicial employees in the Fifteenth Judicial Circuit.

DONE and **SIGNED** in Chambers at West Palm Beach, Florida, this 30th day of September, 1992.

/s/

Daniel T. K. Hurley
Chief Judge

AJS model code of conduct for nonjudicial court employees

Introduction

The holding of public employment in the court system is a public trust justified by the confidence that the citizenry reposes in the integrity of officers and employees of the judicial branch. A court employee, faithful to that trust, therefore shall observe high standards of conduct so that the integrity and independence of the courts may be preserved. Court employees shall carry out all duties assigned by law and shall put loyalty to the principles embodied in this Code above loyalty to persons or parties. A court employee shall uphold the Constitution, laws and legal regulations of the United States, the State of ___ and all governments therein, and never be a party to their evasion. A court employee shall abide by the standards set out in this Code and shall endeavor to expose violations of this Code wherever they may appear to exist.

Scope

1) Each jurisdiction must determine exactly which employees shall be covered by this Code. The Code should apply to all employees who directly or indirectly affect the court's operation. A suggested listing of such employees would include: court clerks, docket clerks, data processing personnel, bailiffs and judicial secretaries, as well as court managers and their staffs. This list is intended to be illustrative and does not imply that other employees should be omitted. For example, if janitors in the court building have contact with the public or have the authority to purchase supplies for the court, then the Code should apply to these employees as well.

2) This Code is not intended to apply to law clerks, who should be held to a higher standard of conduct, nor to court reporters, who are bound by the *Code of Professional Conduct of the National Shorthand Reporters Association*.

3) The term, "court employee," includes within its scope those court employees who are also court managers.

4) The term, "court manager," includes within its scope all court employees who have important supervisory responsibilities. Each jurisdiction must identify the particular court employees who function as managers within that court system.

Section One: Abuse of Position

A) No employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for the employee or others.

B) No employee shall accept, solicit, or agree to accept any gift, favor or anything of value based upon any understanding, either explicit or implicit, that the official actions, decisions or judgment of any employee would be influenced thereby. Gifts that do not violate this prohibition against abuse of position are further regulated in Section Three, Subsection B.6.

C) No employee shall discriminate by dispensing special favors to anyone, whether or not for remuneration, nor shall any employee so act that the employee is unduly affected or appears to be affected by kinship, rank, position or influence of any party or person.

D) No employee shall request or accept any fee or compensation, beyond that received by the employee in his or her official capacity, for advice or assistance given in the course of his or her public employment.

E) Each employee shall use the resources, property and funds under the employee's official control judiciously and solely in accordance with prescribed statutory and regulatory procedures.

F) Each employee shall immediately report to the appropriate authority any attempt to induce him or her to violate any of the standards set out above.

Section Two: Confidentiality

A) No court employee shall disclose to any unauthorized person for any purpose any confidential information acquired in the course of employment, or acquired through unauthorized disclosure by

another.

B) Confidential information includes, but is not limited to, information on pending cases that is not already a matter of public record and information concerning the work product of any judge, law clerk, staff attorney or other employee including, but not limited to, notes, papers, discussions and memoranda.

C) Confidential information that is available to specific individuals by reason of statute, court rule or administrative policy shall be provided only by persons authorized to do so.

D) Every court employee shall report confidential information to the appropriate authority when the employee reasonably believes this information is or may be evidence of a violation of law or of unethical conduct. No court employee shall be disciplined for disclosing such confidential information to an appropriate authority.

E) Court managers should educate court employees about what information is confidential and, where appropriate, should designate materials as confidential.

F) Court employees are not precluded from responding to inquiries concerning court procedures, but a court employee shall not give legal advice. Standard court procedures, such as the method for filing an appeal or starting a small claims action, should be summarized in writing and made available to litigants. All media requests for information should be referred to the court employee designated for that purpose.

G) No court employee shall either initiate or repeat ex parte communications from litigants, witnesses or attorneys to judges, jury members or any other person.

H) A former court employee should not disclose confidential information when disclosure by a current court employee would be a breach of confidentiality.

Section Three: Conflict of Interest

A) Every court employee shall avoid

conflicts of interest, as defined below, in the performance of professional duties. Even though no misuse of office is involved, such a conflict of interest involving a court employee can seriously undermine the community's confidence and trust in the court system. Therefore, every court employee is required to exercise diligence in becoming aware of conflicts of interest, disclosing conflicts to the designated authority and ending them when they arise.

1) A conflict of interest exists when the court employee's objective ability or independence of judgment in the performance of his or her job is impaired or may reasonably appear to be impaired or when the court employee, or the employee's immediate family, as defined below, or business should derive financial gain as a result of the employee's position within the court system.

2) No conflict of interest exists if any benefit or detriment accrues to the employee as a member of a profession, business or group to the same extent as any other member of the profession, business or group who does not hold a position within the court system.

3) For the purposes of this Code, "immediate family" shall include the following, whether related by marriage, blood or adoption: spouse; dependent children; brother; sister; parent; grandparent; grandchildren; father-in-law, mother-in-law; sister-in-law, brother-in-law; son-in-law, daughter-in-law; stepfather, stepmother; stepson, stepdaughter; stepbrother, stepsister; half-brother, half-sister.

B) Prohibited Activities:

1) No court employee shall enter into any contract with the court system for services, supplies, equipment, leases or realty, apart from the employment contract relating to the employee's position, nor use that position to assist any member of his or her immediate family in securing a contract with the court system in a manner not available to any other interested party.

2) No court employee shall receive tips or other compensation for representing, assisting or consulting with parties engaged in transactions or involved in

proceedings with the court system.

3) No court employee shall participate in any business decision involving a party with whom either the court employee or any member of the employee's immediate family is negotiating for future employment.

4) No former court employee shall engage in transactions or represent others in transactions or proceedings with the court system for one year after termination of employment in any matter in which the former employee was substantially involved or in any dealings..with offices or positions that the former employee once held.

5) No court employee shall knowingly employ, advocate or recommend for employment any member of his or her immediate family.

6) No court employee shall solicit, accept or agree to accept any gifts, loans, gratuities, discounts, favors, hospitality or services under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court employee in the performance of official duties.

a) Nothing in this section shall prohibit an employee from accepting public award presented in recognition of public service.

b) Nothing in this section shall prohibit an employee from receiving a commercially reasonable loan made as part of the ordinary transaction of the lender's business.

c) Nothing in this section shall prohibit any person from donating a gift to a group of employees, e.g. all the employees of an office or unit of the Court system, provided that the value and circumstances of the gift are such that it could not be reasonably inferred that the gift would influence the employees in the performance of their official duties or that such influence was the purpose of the donor, and provided that any employee accepting such a gift promptly report the gift to the supervisor who shall be responsible for its proper distribution. Gifts received with the understanding that they will influence employees' official actions, decisions or judgments are prohibited as abuse of office in Section One, Subsection B.

d) Nothing in this section shall prohibit any person or group from donating a gift of historical or other significant value that is given for the benefit of the court system, provided that such a gift is received on behalf of the court system by the appropriate designated authority

C) To secure conformity to the above standards, every court employee who has authority to enter into or to approve contracts in the name of the court system shall file a financial disclosure statement with the appropriate designated authority upon beginning employment in such position, at termination of employment, and annually while so employed. Such disclosure shall include all sources of and contractual arrangements for personal income, including investments and real property, business entity income and business position income held or received by themselves, their spouses or their dependent children, and shall follow the guidelines established by the appropriate designated authority

D) Each full-time court employee's position with the court system must be the employee's primary employment. Outside employment is permissible only if it complies with all the following criteria:

1) The outside employment is not with an entity that regularly appears in court or conducts business with the court system, and it does not require the court employee to have frequent contact with attorneys who regularly appear in the court system; and

2) The outside employment is capable of being fulfilled outside of normal working hours and is not incompatible with the performance of the court employee's duties and responsibilities; and

3) The outside employment does not require the practice of law; and

4) The outside employment does not require or induce the court employee to disclose confidential information acquired in the course of and by reason of official duties; and

5) The outside employment shall not be within the judicial, executive or legislative branch of government without written consent of both employers; and

6) Where a conflict of interest exists or

may reasonably appear to exist or where the outside employment reflects adversely on the integrity of the court, the employee shall inform the appropriate designated authority prior to accepting the other employment.

Section Four: Political Activity

A) Each employee retains the right to vote as the employee chooses and is free to participate actively in political campaigns during non-working hours. Such activity includes, but is not limited to, membership and holding office in a political party campaigning for a candidate in a partisan election by making speeches and making contributions of time or money to individual candidates, political parties or other groups engaged in political activity. An employee who chooses to participate in political activity during off-duty hours shall not use his or her position or title within the court system in connection with such political activities.

B) With the exception of officers of the court who obtain their position by means of election, no employee shall be a candidate for or hold partisan elective office. With the same exception, an employee who declares an intention to run for partisan elective office shall take an unpaid leave of absence upon the filing of nomination papers. If elected, he or she shall resign. An employee may be a candidate for non-partisan elective office or may be appointed to a non-partisan office without separating from employment, provided that the employee complies with the requirements in this Code concerning performance of duties, conflicts of interest, etc.

C) No employee shall engage in any political activity during scheduled work hours, or when using government vehicles or equipment, or on court property. Political activity includes, but is not limited to:

1) Displaying campaign literature, badges, stickers, signs or other items of political advertising on behalf of any party, committee, agency or candidate for political office;

2) Using official authority or position, directly or indirectly, to influence or attempt to influence any other employee

in the court system to become a member of any political organization or to take part in any political activity

3) Soliciting signatures for political candidacy;

4) Soliciting or receiving funds for political purposes.

D) No employee shall discriminate in favor of or against any employee or applicant for employment on account of political contributions or permitted political activities.

Section Five: Performance of Duties

A) Every court employee shall endeavor at all times to perform official duties properly and with diligence. Every court employee shall apply full-time energy to the business and responsibilities of the employee's office during working hours.

B) Every court employee shall carry out responsibilities as a servant of the public in as courteous a manner as possible.

C) Every court employee shall maintain or obtain current licenses or certificates as a condition of employment as required by law or court rule.

D) No court employee shall alter, falsify, destroy, mutilate, backdate or fail to make required entries on any records within the employee's control. This provision does not prohibit alteration or expungement of records or documents pursuant to a court order.

E) No court employee shall discriminate on the basis of nor manifest, by words or conduct, bias or prejudice based on race, religion, national origin, gender, sexual orientation or political affiliation in the conduct of service to the court.

F) No court employee shall give legal advice or recommend the names of private attorneys.

G) No court employee shall refuse to enforce or otherwise carry out any properly issued rule or order of court, nor shall court employees exceed that authority. No court employee shall be required to perform any duties outside the scope of the assigned job description.

H) Every court employee shall immediately report violations of this Code to the appropriate designated authority.

I) Court employees who are law students, attorneys or members of other professional groups are also bound by the appropriate professional duties of those roles.

Section Six: Court Managers

A) Court managers regularly shall update their education.

B) Court managers shall require employees subject to their direction and control to observe the ethical standards set out in this Code.

C) Court managers shall diligently discharge their administrative responsibilities, maintain professional competence in judicial administration and facilitate the performance of other court employees .

D) Court managers shall take action regarding any unethical conduct of which they may become aware, initiating appropriate disciplinary measures against an employee for any such conduct and reporting to appropriate authorities evidence of any unethical conduct by judges or lawyers.

E) Court managers shall not act as leaders in or hold office in any political organization, make speeches for any political organization or publicly endorse a candidate for political office.

_____This Model Code was drafted by David T. Ozar, Cynthia Kelly and Yvette Begue and approved for promulgation by the AJS Executive Committee.