

MODEL CODE OF CONDUCT FOR COURT EMPLOYEES

(with guidelines)

INTRODUCTION

All employees in Michigan's courts hold highly visible positions of public trust. We must conduct our business in an environment and in a manner that favorably reflects the ideals consistent with the fundamental values of the Michigan judicial system, as identified by the Michigan Supreme Court. These values include: fairness, accessibility, accountability, effectiveness, responsiveness and independence. Our actions at all times should uphold and increase the public trust and confidence in the judicial branch, reflect the highest degree of integrity, and demonstrate commitment to each principle embodied in this model code.

SECTION ONE: ABUSE OF POSITION

- A. I will not use or attempt to use my position to secure unwarranted privileges for myself or others.
- B. I will not solicit or accept, or appear to solicit or accept, any gift, favor, or anything of value based upon any material understanding that the official actions, decisions, or judgments of any court employee would be influenced.
- C. I will not discriminate against or otherwise give special treatment or anything of value to any person, whether or not for compensation, or permit family, social, or other relationships to influence or appear to influence my official conduct or judgment.
- D. I will not request or accept anything of value beyond my compensation, as provided by the court's funding unit, for court related work.
- E. I will use the resources, property, and funds under my official control judiciously and solely in accordance with prescribed legal and court operating procedures.
- F. I will provide all court patrons with appropriate procedural information and will not give legal advice; except if I am an attorney licensed to practice law in the jurisdiction and have specific authorization of the chief judge/immediate supervisor to do so.

Guidelines:

Section one of the Model Code of Conduct addresses the use of the real or apparent power of a position as a court employee to "benefit" the employee or someone else personally. There are many degrees of "abuse" ranging from the seemingly inconsequential to situations in which the average person would immediately conclude a court employee is obviously abusing their position. The Code does not attempt to define exactly what "abuse" is or try to quantify the amount an employee must

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benefit before a situation becomes abusive. The Code expresses ideals against which employees should measure their conduct.

Paragraph A addresses the concept of the use of a court position to secure “privileges” or “exemptions.” Generally these would be special considerations given by others to the employee specifically because of the position as a court employee. Court employees should treat everyone with the same courtesy, tact and efficiency and expect to be treated that way. The enjoyment of special privileges or exemptions by an employee gives the impression that they are more special than ordinary people and reflects poorly on the notion that the judicial system and its employees are impartial. The acceptance of “partiality” by a court employee gives rise to the belief that the employee is partial.

Paragraph B addresses the soliciting or acceptance of any gift, favor or thing of value based on an understanding that official actions will be influenced. The solicitation or acceptance of a gift with the understanding that something will be done in return contravenes the core of the ideals expressed in this section. Public service should be delivered impartially, with equal service to all users. The administration of justice is subverted if employees appear to deliver service in a quid pro quo arrangement or to appear to do so. All users of the justice system must be treated equally. Gifts of any sort raise a question as to the independence of the employee. An understanding may be tacit on the part of the donor that the employee will look favorably upon the donor in the future. It will certainly seem so to observers. Seemingly small and innocent gifts may soon lead to larger ones, more and more threatening the integrity of the employee.

Paragraph C states the corollary that the official actions of an employee should not be affected or appear to be affected by kinship, rank, position or influence of any party or person. Many times relationships place temptation upon the employee to provide special service or non-service. Again, differential treatment in any of these situations undermines the integrity of the employee and the judicial system. In situations where an employee may appear to be favoring a relative or influential person, an employee could advise and seek counsel from their supervisor. An employee could also make sure another employee participates in the transaction so that the appearance of special unilateral action is eliminated.

Paragraph D emphasizes that the compensation of court employees is to be provided by their funding unit through their salary and benefits. An employee should not request or accept any additional compensation for doing their duty as a court employee. Acceptance of any additional compensation for doing their duty gives rise to the impression that the court employee will be responsive to the needs of the donor.

Paragraph E addresses the ideal that a court employee is a steward of the public resources that are placed at their disposal. Funds should be expended carefully, only for the purposes intended by the funding unit. Pitfalls could include such temptations as personal telephone calls at funding unit expense, personal use of government property, such as pens, pencils, paper, printers, computers, vehicles, etc, or the use of funding unit property to assist non-employees in some way as a favor.

Paragraph F addresses the temptation to answer the many questions asked by users of the court which call for legal advice. There are some attorney employees who are licensed to practice law and are authorized by the Chief Judge of the particular court to tread into the area of legal advice. The Model Code acknowledges this. Other employees must not do so. On the other hand, avoidance of legal

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advice does not mean that employees should be afraid to provide excellent customer service. Legal advice does not refer to accurate information about the court or court procedures. Pitfalls arise when individuals describe a factual situation and ask for information on what they should or should not do. The Michigan Judicial Institute has developed a web-based training program which delves into this issue in depth. Review of the web-based training is recommended.

SECTION TWO: CONFLICT OF INTEREST

A. I will avoid conflicts of interest and the appearance of conflicts of interest in the performance of my duties.

B. I will not engage in outside employment which may conflict or appear to conflict with the performance of my official responsibilities.

Guidelines:

Paragraph A infers that a conflict of interest exists when the employee's ability to perform his or her duty is impaired or when the court employee, his or her family, or business would derive some benefit as a result of his or her position within the court system. Employees are obligated to perform their duties in a fair, impartial and objective manner. It is, therefore, required that employees avoid situations that would impair their ability to fulfill that obligation.

Examples of conflicts of interest are:

1. Employee entering contract directly or indirectly for services, supplies, equipment or realty with the court system.
2. Employees providing information to a company that would provide an advantage to that company over other companies.

Paragraph B indicates that the employee's position with the court system must be his or her primary employment. Outside employment must be fulfilled outside of the normal working hours of the court and it must not be in conflict or interfere with the performance of the employee's duties and responsibilities at the court.

No form of outside employment shall be performed utilizing the resources of the court and shall not require or induce the employee to disclose information acquired in the course of his or her official duties. Outside employment should not reflect adversely on the integrity of the court. One example of employment which appears to be a conflict of interest and adversely reflect on the integrity of the court would be probation staff working for treatment agencies.

SECTION THREE: CONFIDENTIALITY

- A. I will not disclose to any unauthorized person any confidential information acquired in the course of my court employment.

Guidelines:

Sensitive information acquired by court employees in the course of performing their official duties should never be revealed until it is made a matter of public record. Even when the information becomes public, court employees should exercise a great deal of discretion. Sometimes breaches of confidentiality do not involve intentional disclosures of official court records. Some are the result of innocent and casual remarks about pending or closed cases, about participants in litigation or about juries which could give attorneys, litigants and reporters confidential information. Such remarks can seriously compromise a case or a person's standing in the community. Court staff should discuss cases only for legitimate reasons, and should handle sensational or sensitive cases with great care and discretion. Examples of confidentiality issues are not limited to cases. Personnel, probation and LEIN issues all have confidential limitations. Counter clerks should guard against being overheard when discussing legitimate confidential information.

SECTION FOUR: POLITICAL ACTIVITY

- A. I am free to engage in political activities during non-working hours if such activity does not use, or appear to use, my position or court in connection with such activities.
- B. I will not discriminate in favor of or against any employee or applicant for employment because of his or her political contributions or political activities.

Guidelines:

Paragraph A discusses a court employee's participation in the democratic process, which indicates working for a political cause, party or candidate should not be hampered by his/her employment if done outside of working hours. This participation includes, but is not limited to, holding party membership, holding public office¹, making speeches, and making contributions of time and/or money to candidates, political parties or other groups engaged in political activity.

This participation in political activity should not transcend into the workplace by the displaying of political material (i.e., literature, badges, signs or other material advertising a political cause, party or candidate), soliciting signatures for political candidacy, and soliciting or receiving funds for political purposes. In addition no government equipment or resources of any kind are to be used for promoting political activity in the workplace before, during, or after work hours.

Paragraph B states that interaction between employees during work hours should focus on professional duties and should exhibit mutual courtesy and respect to co-workers. Additionally, the evaluation of prospective employees should be based on their employable qualities such as job skills, knowledge,

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and attitude. Therefore, no employee will discriminate in favor of or against any employee or applicant for employment based on their political activities.

SECTION FIVE: PERFORMANCE OF DUTIES

- A. I will carry out my responsibilities to the public in a timely, impartial, diligent, and courteous manner.
- B. I will not discriminate on the basis of, nor display by words or conduct, a bias or prejudice based upon race, color, religion, national origin, gender, or other protected group, in the conduct of service to the court and the public.
- C. I will enforce or otherwise carry out any properly issued rule or order of court.
- D. I will promote ethical conduct and report any improper conduct and violations of this Model Code of Conduct by any persons to appropriate authorities.
- E. I will actively pursue continuing education opportunities for the purpose of improving my professional skills and thereby providing higher quality service to the court and the public.
- F. I will avoid any activity which would reflect adversely on my position or the court.

Guidelines:

Paragraph A deals with the idea that the court is a service to the public, and that actions by a court employee should reflect a high level of professionalism. Employees need to be able to provide complete and understandable answers to the public's questions in an efficient manner. Simultaneously, they must recognize that colleagues are also customers, and they should be given the same level of consideration as public clients.

Paragraph B pertains to denigration of any individual(s) by a court employee. Essential to the administration of justice is allowing equal access and treatment for all. Every day court employees are called upon to assist people, and it is their responsibility to provide these customers with the utmost service, regardless of the individual's race, religion, gender, national origin, etc. Discrimination can come in varying forms (speech, conduct, etc.), yet court employees should be aware that no form of discrimination is acceptable and when discovered should be exposed and discouraged.

Paragraph C addresses the idea that for the court to be an effective institution, court employees must follow the rules/orders designed by the court. By enforcing the orders given by the court, employees encourage a shared level of understanding and efficiency. Disregarding rules/orders provided by the court allows for confusion and a decline in overall productivity that compromises the concept of professionalism.

Paragraph D states that employees should faithfully pursue the guidelines explained in the Model Code of Conduct and that when necessary, report problems or violations to an appropriate authority within the court system.

Paragraph E acknowledges the idea that when working within the court, laws and rules of operation are continually changing due to legislation, higher court decisions, technology, etc. Therefore, court

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employees are encouraged to take advantage of educational opportunities that will advance their understanding and allow for better service.

Paragraph F addresses the idea that court employees are highly visible and that their actions reflect upon not only themselves, but the court as well. Improper behavior or the appearance thereof may compromise an employee's professional integrity. Before partaking in a particular action, court employees should consider its propriety. Employees should conduct themselves in a manner that instills public trust and confidence.

I have read and understand this Model Code of Conduct. As a court employee, I also agree that I will support the Constitution of the United States and the Constitution of this State, and that I will faithfully discharge the duties of my office.

Signature

Date

DEFINITION OF TERMS

CONFIDENTIAL INFORMATION includes, but is not limited to, information on pending cases that is not already a matter of public record and information concerning decision-making processes of particular judges.

CONFLICT OF INTEREST includes, but is not limited to situations where the court manager's objective ability and/or independent judgment in the performance of their official duties may be impaired; or when the court manager (including family) may receive a direct or indirect benefit resulting from any official action.

COURT EMPLOYEE: Each court must determine which employees (*i.e.*, full-time staff, part-time staff, volunteers, independent contractors, etc.) represent the court and are therefore covered by this Model Code of Conduct.

LEGAL ADVICE: Advising someone to follow a specific or general course of action or to interpret law as it relates to a specific case or set of facts.

Can Provide:

- Legal definitions
- Procedural definitions
- Cites of statutes, court rules and ordinances
- Public case information
- General information on court operations
- Options
- Access
- General referrals
- Forms and instructions on how to complete forms

Cannot Provide:

- Legal Interpretations
- Procedural advice
- Research of statutes, court rules and ordinances
- Confidential case information
- Confidential or restricted information on court operations
- Opinions
- Deny access, discourage access or encourage litigation
- Subjective or biased referrals
- Fill out forms for a party

PROCEDURAL INFORMATION: Identifying court rules, statutes, procedures or options in general.

¹ Holding public office is acceptable unless a conflict of interest exists with employment at the court. An example of a conflict, serving on the county board of commissioners whose oversight of budget and other policy issues impact the court.