

STATE OF MICHIGAN
IN THE PROBATE COURT FOR THE COUNTY OF OAKLAND

In the Matter of
Administrative Orders

File No. 81-149,439 ML

ADMINISTRATIVE ORDER 1997-06
RESCINDS ADMINISTRATIVE ORDER 1996-01

At a session of the Court, held
in the Court House, City of Pontiac,
Oakland County, Michigan, on
December 9, 1997

PRESENT: HON. EUGENE ARTHUR MOORE, Chief Judge of Probate
HON. BARRY M. GRANT, Judge of Probate
HON. WENDY POTTS, Judge of Probate
HON. SANDRA G. SILVER, Judge of Probate

ORDER AFFIRMING ADOPTION OF STANDARDS OF CONDUCT
FOR OAKLAND COUNTY PROBATE COURT EMPLOYEES

This administrative order is issued in accordance with Michigan Court Rule 8.112(B). The purpose of this order is to affirm the adoption of updated Standards of Conduct and to rescind Administrative Order 1996-01, which affirmed the adoption of Standards of Conduct which will become outdated as of January 1, 1998.


The assurance and maintenance of public trust and confidence in the integrity of the judicial branch of government is integral to proper court administration. The adoption and periodic revision of the Standards of Conduct furthers the cause.

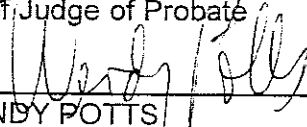
IT IS ORDERED THEREFORE that the attached "Standards of Conduct for Oakland County Probate Court Employees," revision date 10/29/97, is adopted.

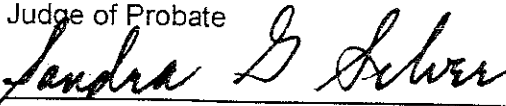
IT IS FURTHER ORDERED that this order shall become effective upon notification from the State Court Administrative Office that it has been accepted and filed. Upon its taking effect, Administrative Order 1996-01 is REVOKED.

Dated: December 9, 1997


EUGENE ARTHUR MOORE
Chief Judge of Probate


BARRY M. GRANT
Judge of Probate


WENDY POTTS
Judge of Probate


SANDRA G. SILVER
Judge of Probate

CODE OF ETHICS
STANDARDS OF CONDUCT
FOR OAKLAND COUNTY PROBATE COURT EMPLOYEES

PREAMBLE

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.

Oakland County Probate Court employees shall conduct their private and professional lives in such a manner as to avoid bringing discredit upon themselves and which would tend to lessen public confidence in the operation or reputation of the court.

Oakland County Probate 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.

Oakland County Probate Court employees shall uphold the Constitution, laws and legal regulations of the United States, the State of Michigan, and all governments therein, and never be a party to their evasion. Oakland County Probate Court employees 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

The Standards of Conduct outlined herein shall apply to all Probate Court employees in the performance of their work.

Judges and referees are bound also by the Standards of Conduct prescribed in the Michigan Code of Judicial Conduct (MSC, October 1, 1974) as well as the Michigan Rules of Professional Conduct (MSC, October 1, 1988).

Attorneys for the court are bound by Michigan Rules of Professional Conduct (MSC, Oct. 1, 1988).

Psychologists are bound also by the Ethics Principles of Psychologists (American Psychological Association, December 1, 1992, as revised).

Social workers are bound also by the Code of Ethics (National Association of Social Workers).

Court reporters are bound also by the Code of Professional Conduct of the National Shorthand Reporters Association.

Court employees who are members of other professional groups are also bound by the appropriate professional duties of those roles.

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.9(c).
- 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 supervisory staff 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 estate, should be summarized in writing and made available to parties.
- G. All media requests for information should be referred to the court employee designated for that purpose. All other employees shall refrain from making public statements on behalf of the court and must clearly distinguish between public statements that are personal views and those that are on behalf of the court.
- H. No court employee shall either initiate or repeat ex parte communications from litigants, witnesses or attorneys to judges, jury members or any other person, except that court employees shall report violations of this code in accordance with Section Five (K).
- I. 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. Definitions and Rationale

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 would 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 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; 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 develop a relationship with a court client other than that necessary to conduct business. Court employees shall not knowingly become socially, romantically or sexually involved with clients or their immediate family members or engage in any activity that could discredit or cause an embarrassment to the court. If a Court employee has a pre-existing relationship with an individual who subsequently becomes involved with the Court, the employee shall notify the Court and seek guidance regarding potential conflict.
2. Court employees who render decisions about clients/client services and employees who directly deliver services shall not knowingly conduct financial or business dealings with court clients, including but not limited to, such matters as serving as a fiduciary or surety, accepting or making loans, or co-signing promissory notes.
3. No court employee shall participate in associations or relationships with person(s), organization(s) or place(s) of known criminal reputation or record, except as necessary for the performance of official duties.
4. 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 party.

5. 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.
6. 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.
7. No court employee shall knowingly employ with the court, any member of his or her immediate family.
8. 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 a 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 employee's 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. Outside Employment

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 or induce the court employee to disclose confidential information acquired in the course of, and by reason of, official duties; and
4. The employee shall notify the court in writing of all outside employment activities; and
5. Where a conflict of interest may exist, or may reasonably appear to exist, or where the outside employment may reflect adversely on the integrity of the court, the employee shall inform the appropriate designated authority prior to accepting the other employment; and
6. The outside employment shall not be within the judicial, executive, or legislative branch of government without written consent of both employers.

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 a county or state elective office. With the same exception, an employee who declares an intention to run for a county or state elective office shall resign or take an unpaid leave of absence upon the filing of nomination papers. If elected, he or she shall resign.
- C. No employee shall engage in any political activity during scheduled work hours, or when using governmental 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. This provision does not prohibit the display of campaign bumper stickers on private vehicles.
 - 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 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 recognize and respect the appropriate limits of the services offered and direct individuals to alternative resources when necessary.
- B. Every court employee shall handle each case with appropriate concern for the client's welfare, the public's interest, and with no purpose of personal gain.
- C. Every court employee shall maintain relationships with professional colleagues in such a manner as to promote mutual respect and improvement of the quality of services provided.
- D. 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 responsibility of the employee's office during working hours.
- E. Every court employee shall carry out responsibilities as a servant of the public in as courteous a manner as possible.
- F. Every court employee shall maintain, or obtain, current licenses or certificates as a condition of employment as required by law or court rule.

- G. 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 expungment of records or documents pursuant to a court order.
- H. 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, handicap or political affiliation in the conduct of service to the court.
- I. No court employee shall give legal advice or recommend the names of private attorneys to court clients.
- J. No court employee shall refuse to enforce or otherwise carry out any properly issued rule or order of the 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.
- K. Every court employee shall immediately report violations of this code to the appropriate designated authority.

SECTION SIX - COURT SUPERVISORY AND ADMINISTRATIVE PERSONNEL

- A. Supervisors and members of the Administrative Team* shall attempt to keep abreast of new and improved techniques and information available to assist them in their job performance.
- B. Supervisors and members of the Administrative Team shall inform and require employees subject to their direction and control to observe the ethical standards set out in this code.
- C. Supervisors and members of the Administrative Team shall diligently discharge their administrative responsibilities, maintain professional competence in judicial administration and facilitate the performance of other court employees.
- D. Supervisors and members of the Administrative Team 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.

*"Administrative Team" means Court Administrator, Deputy Court Administrators, Chiefs, and Senior Referee.

This code modeled after the American Judicature Society's Code as promulgated by their executive committee. Modifications made as applicable to Oakland County Probate Court.