

ACKNOWLEDGMENT OF GRATUITOUS SERVICES AND WAIVER

I, _____, hereby declare that my services to be performed from approximately _____ to _____ in the capacity of _____ to _____

in the United States _____ (*court or office*) are to be solely as a volunteer. I hereby waive any claim or right to receive salary or other compensation in consideration for the performance of duties assigned by _____.

I acknowledge that I am not entitled to receive civil service retirement credit or other related personnel benefits as a consequence of this voluntary employment, except that in the event of any personal injury incurred by me, I shall have those rights to compensation, if any, which may be provided by statute to persons rendering voluntary services to the United States. I further recognize that, as an employee of the United States, I retain no personal copyright privileges in any work product prepared by me in the course of this employment. Finally, I recognize that information which I obtain or to which I shall have access in the course of my employment is often of a confidential nature, and I agree to preserve the confidentiality of such information.

Name

Date

Witness

Date

Pursuant to the authority vested in the Director of the Administrative Office of the United States Courts by 28 U.S.C. § 604(a)(17) and by delegation of this authority from the Director, I hereby accept and authorize the utilization of the gratuitous services described above.

Signature of the Court Unit Executive

Date

Guide to Judiciary Policy

Vol 2: Ethics and Judicial Conduct
Pt A: Codes of Conduct

Ch 3: Code of Conduct for Judicial Employees

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§ 310 Overview

§ 310.10 Scope

- (a) This Code of Conduct applies to all employees of the judicial branch, including interns, externs, and other volunteer court employees, except it does not apply to Justices; judges; and employees of the United States Supreme Court, the Administrative Office of the United States Courts, the Federal Judicial Center, the Sentencing Commission, and federal public defender offices.

- (b) Justices and employees of the Supreme Court are subject to standards established by the Justices of that Court. Judges are subject to the [Code of Conduct for United States Judges \(Guide, Vol 2A, Ch 2\)](#). Employees of the AO and the FJC are subject to their respective agency codes. Employees of the Sentencing Commission are subject to standards established by the Commission. Federal public defender employees are subject to the [Code of Conduct for Federal Public Defender Employees \(Guide, Vol 2A, Ch 4\)](#). Intermittent employees [[HR Manual, Sec 5, Ch 4.7](#)] are subject to canons 1, 2, and 3 and such other provisions of this code as may be determined by the appointing authority.
- (c) Employees who occupy positions with functions and responsibilities similar to those for a particular position identified in this code should be guided by the standards applicable to that position, even if the position title differs. When in doubt, employees may seek an advisory opinion as to the applicability of specific code provisions.
- (d) Contractors and other nonemployees not covered above who serve the judiciary are not covered by this code, but appointing authorities may impose these or similar ethical standards on such nonemployees, as appropriate.

§ 310.20 History

- (a) With the adoption of the Code of Conduct for Judicial Employees on September 19, 1995, the Judicial Conference repealed the Code of Conduct for Clerks (and Deputy Clerks), the Code of Conduct for United States Probation Officers (and Pretrial Services Officers), the Code of Conduct for Circuit Executives, the Director of the Administrative Office, the Director of the Federal Judicial Center, the Administrative Assistant to the Chief Justice, and All Administrative Office Employees Grade GS-15 and Above, the Code of Conduct for Staff Attorneys of the United States, the Code of Conduct for Federal Public Defenders, and the Code of Conduct for Law Clerks. [JCUS-SEP 95](#), p. 74.
- (b) This Code of Conduct for Judicial Employees took effect on January 1, 1996.
- (c) In March 2001, the Conference revised Canon 3F(4). [JCUS-MAR 01](#), pp. 10-12.
- (d) The Conference revised the following provisions in March 2013: "Scope" (§ 310.10(a) and (d)); "Definitions" (§ 310.30(a)); Canon 1; Canon 3F(2)(a)(ii); Canon 4A; and Canon 5B. [JCUS-MAR 13](#), p. 9.

§ 310.30 Definitions

(a) Member of a Judge's Personal Staff

As used in this code in canons 3F(2)(b), 3F(5), 4B(2), 4C(1), and 5B, a member of a judge's personal staff means a judge's secretary or judicial assistant, a judge's law clerk, intern, extern, or other volunteer court employee, and a courtroom deputy clerk or court reporter whose assignment with a particular judge is reasonably perceived as being comparable to a member of the judge's personal staff.

(b) Third Degree of Relationship

As used in this code, the third degree of relationship is calculated according to the civil law system to include the following relatives: parent, child, grandparent, grandchild, great grandparent, great grandchild, brother, sister, aunt, uncle, niece and nephew.

§ 310.40 Further Guidance

(a) The Judicial Conference has authorized its Committee on Codes of Conduct to render advisory opinions concerning the application and interpretation of this code. Employees should consult with their supervisor and/or appointing authority for guidance on questions concerning this code and its applicability before a request for an advisory opinion is made to the Committee on Codes of Conduct.

(b) In assessing the propriety of one's proposed conduct, a judicial employee should take care to consider all relevant canons in this code, the Ethics Reform Act, and other applicable statutes and regulations (*e.g.*, receipt of a gift may implicate canon 2 as well as canon 4C(2) and the Ethics Reform Act gift regulations).

(c) Should a question remain after this consultation, the affected judicial employee, or the chief judge, supervisor, or appointing authority of such employee, may request an advisory opinion from the Committee. Requests for advisory opinions may be addressed to the chair of the Committee on Codes of Conduct by email or as follows:

Chair of the Committee on Codes of Conduct
c/o Office of the General Counsel
Administrative Office of the United States Courts
One Columbus Circle, N.E.
Washington, D.C. 20544

§ 320 Text of the Code

Canon 1: A Judicial Employee Should Uphold the Integrity and Independence of the Judiciary and of the Judicial Employee's Office

An independent and honorable Judiciary is indispensable to justice in our society. A judicial employee should 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 should require adherence to such standards by personnel subject to their direction and control. The provisions of this code should be construed and applied to further these objectives. The standards of this code do not affect or preclude other more stringent standards required by law, by court order, or by the appointing authority.

Canon 2: A Judicial Employee Should Avoid Impropriety and the Appearance of Impropriety in All Activities

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

Canon 3: A Judicial Employee Should Adhere to Appropriate Standards in Performing the Duties of the Office

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

- A. A judicial employee should respect and comply with the law and these canons. A judicial employee should report to the appropriate supervising authority any attempt to induce the judicial employee to violate these canons.

Note: A number of criminal statutes of general applicability govern federal employees' performance of official duties. These include:

- [18 U.S.C. § 201](#) (bribery of public officials and witnesses);

- [18 U.S.C. § 211](#) (acceptance or solicitation to obtain appointive public office);
- [18 U.S.C. § 285](#) (taking or using papers relating to government claims);
- [18 U.S.C. § 287](#) (false, fictitious, or fraudulent claims against the government);
- [18 U.S.C. § 508](#) (counterfeiting or forging transportation requests);
- [18 U.S.C. § 641](#) (embezzlement or conversion of government money, property, or records);
- [18 U.S.C. § 643](#) (failing to account for public money);
- [18 U.S.C. § 798](#) and [50 U.S.C. § 783](#) (disclosure of classified information);
- [18 U.S.C. § 1001](#) (fraud or false statements in a government matter);
- [18 U.S.C. § 1719](#) (misuse of franking privilege);
- [18 U.S.C. § 2071](#) (concealing, removing, or mutilating a public record);
- [31 U.S.C. § 1344](#) (misuse of government vehicle);
- [31 U.S.C. § 3729](#) (false claims against the government).

In addition, provisions of specific applicability to court officers include:

- [18 U.S.C. §§ 153, 154](#) (court officers embezzling or purchasing property from bankruptcy estate);
- [18 U.S.C. § 645](#) (embezzlement and theft by court officers);
- [18 U.S.C. § 646](#) (court officers failing to deposit registry moneys);
- [18 U.S.C. § 647](#) (receiving loans from registry moneys from court officer).

This is not a comprehensive listing but sets forth some of the more significant provisions with which judicial employees should be familiar.

- B. A judicial employee should be faithful to professional standards and maintain competence in the judicial employee's profession.
- C. A judicial employee should be patient, dignified, respectful, and courteous to all persons with whom the judicial employee deals in an official capacity, including the general public, and should require similar conduct of personnel subject to the judicial employee's direction and control. A judicial employee should diligently discharge the responsibilities of the office in a prompt, efficient, nondiscriminatory, fair, and professional manner. A judicial employee should never influence or attempt to 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 should a judicial employee imply that he or she is in a position to do so.

D. A judicial employee should avoid making public comment on the merits of a pending or impending action and should 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 should never disclose any confidential information received in the course of official duties except as required in the performance of such duties, nor should a judicial employee employ such information for personal gain. A former judicial employee should observe the same restrictions on disclosure of confidential information that apply to a current judicial employee, except as modified by the appointing authority.

E. A judicial employee should not engage in nepotism prohibited by law.

Note: See also [5 U.S.C. § 3110](#) (employment of relatives); [28 U.S.C. § 458](#) (employment of judges' relatives).

F. Conflicts of Interest

(1) A judicial employee should 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 properly to perform official duties in an impartial manner.

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

(a) A staff attorney or law clerk should not perform any official duties in any matter with respect to which such staff attorney or law clerk 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 lawyer in the matter in controversy, or a lawyer with whom he or she previously practiced law had served (during such association) as a lawyer concerning the matter (provided that the prohibition relating to the previous practice of law does not apply if he or she did not work on the matter, did not access confidential information relating to the matter, and did not practice in the same office as the lawyer), 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 in a party to the proceeding;
 - (iv) he or she, a spouse, or a person related to either within the third degree of relationship (as defined above in § 310.40), 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 secretary to a judge, or a courtroom deputy or court reporter whose assignment with a particular judge is reasonably perceived as being comparable to a member of the judge's personal staff, should not perform any official duties in any matter with respect to which such secretary, courtroom deputy, 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 secretary, courtroom deputy, or court reporter 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 secretary, courtroom deputy, or court reporter possesses any of the foregoing characteristics and so advises the judge, the judge should also consider whether the Code of Conduct for United States Judges may require the judge to recuse.

- (c) A probation or pretrial services officer should 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.
- (3) When a judicial employee knows that a conflict of interest may be presented, the judicial employee should promptly inform his or her appointing authority. The appointing authority, after determining that a conflict or the appearance of a conflict of interest exists, should 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 should observe any restrictions imposed by his or her appointing authority in this regard.
- (4) A judicial employee who is subject to canon 3F(2)(a) should keep informed about his or her personal and fiduciary financial interests and make a reasonable effort to keep informed about the personal financial interests of a spouse or minor child residing in the judicial employee's household. For purposes of this canon, "financial interest" means ownership of a legal or equitable interest, however

small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

- (a) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the employee participates in the management of the fund;
 - (b) an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;
 - (c) the proprietary interest of a policy holder in a mutual insurance company, or a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;
 - (d) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.
- (5) A member of a judge's personal staff should inform the appointing judge of any circumstance 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 judge.

Canon 4: In Engaging in Outside Activities, a Judicial Employee Should Avoid the Risk of Conflict with Official Duties, Should Avoid the Appearance of Impropriety, and Should Comply with Disclosure Requirements

A. Outside Activities

A judicial employee's activities outside of official duties should 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. If such outside activities concern the law,

the legal system, or the administration of justice, the judicial employee should 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. A judicial employee should not accept a governmental appointment that has the potential for dual service to and/or supervision by independent branches of government (including state courts) or different governments during judicial employment.

B. Solicitation of Funds

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

- (1) A judicial employee should not use or permit the use of the prestige of the office in the solicitation of funds.
- (2) A judicial employee should 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 a judge's personal staff should 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.
- (3) A judicial employee should 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.

C. Financial Activities

- (1) A judicial employee should refrain from outside financial and business dealings that tend to 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, provided, however, that court reporters are not prohibited from providing reporting services for compensation to the extent permitted by statute and by the court. A member of a judge's personal staff should consult with the appointing judge concerning any financial and business activities that might reasonably be interpreted as violating this code and should refrain from any activities that fail to conform to the foregoing standards or that the

judge concludes may otherwise give rise to an appearance of impropriety.

- (2) A judicial employee should 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 the Ethics Reform Act of 1989 and the Judicial Conference regulations thereunder. A judicial employee should 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 the Ethics Reform Act of 1989 and the Judicial Conference regulations thereunder.

Note: See [5 U.S.C. § 7353](#) (gifts to federal employees). See also [5 U.S.C. § 7342](#) (foreign gifts); [5 U.S.C. § 7351](#) (gifts to superiors).

- (3) A judicial employee should report the value of gifts to the extent a report is required by the Ethics Reform Act, other applicable law, or the Judicial Conference of the United States.

Note: See [5 U.S.C. App. §§ 101 to 111](#) (Ethics Reform Act financial disclosure provisions).

- (4) 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 should 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 should promptly bring this fact to the attention of the appointing authority.

D. Practice of Law

A judicial employee should not engage in the practice of law except that 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 a federal 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 should 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 should observe such limitations after leaving such employment.

Note: See also [18 U.S.C. § 203](#) (representation in matters involving the United States); [18 U.S.C. § 205](#) (claims against the United States); [28 U.S.C. § 955](#) (restriction on clerks of court practicing law).

E. 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, the Ethics

Reform Act, and other applicable law, and 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. Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by a judicial employee and, where appropriate to the occasion, by the judicial employee's spouse or relative. Any payment in excess of such an amount is compensation.

A judicial employee should make and file reports of compensation and reimbursement for outside activities to the extent prescribed by the Ethics Reform Act, other applicable law, or the Judicial Conference of the United States.

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

Note: See [5 U.S.C. App. §§ 101 to 111](#) (Ethics Reform Act financial disclosure provisions); [28 U.S.C. § 753](#) (court reporter compensation). See also [5 U.S.C. App. §§ 501 to 505](#) (outside earned income and employment).

Canon 5: A Judicial Employee Should Refrain from Inappropriate Political Activity

A. Partisan Political Activity

A judicial employee should refrain from partisan political activity; should not act as a leader or hold any office in a partisan political organization; should not make speeches for or publicly endorse or oppose a partisan political organization or candidate; should not solicit funds for or contribute to a partisan political organization, candidate, or event; should not become a candidate for partisan political office; and should not otherwise actively engage in partisan political activities.

B. Nonpartisan Political Activity

A member of a judge's personal staff, lawyer who is employed by the court and assists judges on cases, clerk of court, chief probation officer, chief

pretrial services officer, circuit executive, and district court executive should refrain from nonpartisan political activity such as campaigning for or publicly endorsing or opposing a nonpartisan political candidate; soliciting funds for or contributing to a nonpartisan political candidate or event; and becoming a candidate for nonpartisan political office. Other judicial employees may engage in nonpartisan political activity only if such activity does not tend to reflect adversely on the dignity or 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 utilize any federal resources in connection with any such activity.

Note: See also [18 U.S.C. chapter 29](#) (elections and political activities).

Statement of Acknowledgment and Understanding of the Judicial Code of Ethics and Conduct

I hereby acknowledge that I have read the Vol 2: Ethics and Judicial Conduct Part A and understand the requirements as a student intern.

Printed Name: _____

Signature: _____

Date: _____

Appendix E Intern IT Guidelines and Policy

Revised: 4/23/2014

INTERN/EXTERN TECHNOLOGY PROVISIONS

☐ COMPUTERS

Several court owned computers are available in each location. These are available on a first come, first server basis. However, the court cannot guarantee a computer for every intern. Therefore, the court asks interns to supply their own computers during their internship. The computer must meet certain hardware specifications for access to the court's network to be achieved. The specifications are:

- o A laptop or notebook computer
- o At least a 1.0GHZ processor and at least 1 gigabyte of RAM
- o Wireless network card
- o Microsoft Windows 7 (and up)

NOTE: Court owned computers must NOT be removed from the court office. They are for internal use only. No software can be installed on court computers. Please review the IT manual on acceptable use.

☐ INTERNET ACCESS

The court will provide wireless (and in some cases wired) internet access. Must read and sign the Internet use policy and IT policy.

PERSONAL COMPUTER SECURITY

☐ CITRIX CLIENT

This free software is required to access court files and applications. It will need to be downloaded and installed on your computer once connected to the court's network.

☐ VPN SOFTWARE

Several browser plug-ins are required to access the court's network. JAVA software is required for these plug-ins to work. Please ensure your

computer is running the latest version of JAVA *before* beginning your internship.

This free software may be downloaded here: <http://java.com/en/download/>

☐ **OPERATING SYSTEM PATCHES**

The computer must have all the latest operating system patches. Please ensure your operating system is fully patched *before* beginning your internship. Windows patches may be obtained here:

<http://www.microsoft.com/windowsupdate>.

☐ **ANTIVIRUS/ANTIMALWARE SOFTWARE**

The computer must be free from viruses and have antivirus software installed. The antivirus software must be up to date with the latest virus definitions. If user does not have antivirus software or cannot update the definitions, the court IT staff may require antivirus software to be installed before allowing the computer to access the court's network. The free antivirus program, Microsoft's Security Essentials can be downloaded here: <http://windows.microsoft.com/en-US/windows/products/security-essentials> and/or AVG from GRISoft may be downloaded here:

<http://free.grisoft.com>

☐ **FIREWALL SOFTWARE**

While, firewall may protect the computer from intrusions, it may interfere with the court's VPN software. The firewall software may need to be disabled or modified to allow the VPN software to function properly. Please be familiar with your firewall software and be prepared to disable it if necessary to allow the court's software to function properly.

☐ **INSTANT MESSAGING SOFTWARE**

All instant messaging software such as AIM or MSN Messenger must be disabled before connecting to the court's network.

☐ **FILE SHARING SOFTWARE**

File sharing software such as Limewire, BearSare, and BitTorrent cannot be present on the computer if it is to be used on the court's network. The court IT staff may uninstall any file sharing software found on the computer before allowing the user to connect to the court's network.

☐ **VOICE OVER IP SOFTWARE**

VOIP or Internet Telephone software (such as Skype, FaceTime or similar) should be disabled before connecting to the court's network.

ACCOUNTS AND PASSWORDS

□ EMAIL ACCOUNTS

Generic email accounts are provided for each intern. These accounts may be used by other interns in the future. Therefore, users are to refrain from using these accounts for non-court correspondence and to delete all messages before separating. See the internet/email usage policy

□ LAW RESEARCH ACCOUNTS

Interns are encouraged to use their own accounts for law research. Usually law schools will provide Westlaw or Lexis Nexis accounts. If the student cannot use the account provided by their school, the court may opt to create a temporary account with Westlaw and/or Lexis Nexis.

INTERNET/EMAIL USAGE POLICY

- Interns are required to read and abide by the court's internet and email usage policy. This policy is available on the court intranet site and can be downloaded here:

http://www.ncwd.uscourts.gov/sites/default/files/general/Intern_Paperwork_and_Forms.pdf

SUPPORT

- The court IT staff is available to assist in any technical problem relating to court business. The Help Desk may be reached by calling 704-350-7426 or by using the Create Help Desk Ticket link from the court's intranet site.

**UNITED STATES DISTRICT COURT/PROBATION OFFICE/
US BANKRUPTCY COURT/US BANKRUPTCY ADMINISTRATOR
WESTERN DISTRICT OF NORTH CAROLINA**

Internet, Social Media and Email Security Policy

OVERVIEW

The United States District Court, the United States Probation and Pretrial Office and the United States Bankruptcy Court for the Western District of North Carolina use computer technology in many ways. This technology allows court staff and users to access information sources from distant locations and, in some cases, communicate with individuals or groups. With this opportunity, of course, comes great responsibility to ensure that court resources and records are used appropriately. This policy sets forth guidelines for the authorized and intended use of court IT equipment and software.

All court employees and interns are required to read and agree to this policy before being permitted access to the courts' computer and network systems. **Failure to adhere to this policy may result in restricted access or disciplinary action, including termination of employment.**

RESPONSIBILITY

Experience in the private sector and in other government agencies has revealed four principal areas of concern associated with uncontrolled access to the Internet for employees: institutional embarrassment, misperception of authority, lost productivity, and capacity demand. When accessing the Internet from a judiciary gateway, users need to keep in mind several points:

- Use discretion and avoid accessing Internet sites which may be inappropriate or reflect badly on the judiciary;
- Those not authorized to speak on behalf of their units or the judiciary should avoid the appearance of doing so;
- Exercise judgment in the time spent on the Internet to avoid an unnecessary loss of productivity or inappropriate stress on capacity.

INTERNET/EMAIL ACCESS

(A) General Use

The Internet is an informal collection of government, military, commercial, and educational computer networks. It is an unsecured network of which information and Internet e-mail can be read, broadcast or published without the knowledge or consent of the author. Most sites maintain records of all users or entities accessing their resources. These records may be open to inspection and publication without the user's knowledge or consent. If the activity of the user is for a purpose other than official business, the publication of that activity could prove to be an embarrassment to the court and perhaps the entire federal judiciary.

Accordingly, Internet access at the court is restricted. It is a privilege, not a right. Users who wish to access the Internet on court equipment or for official business purposes should obtain written approval from the Judge or Unit Executive who supervises them. The Director of IT for each court unit will be informed whenever such access is approved and receive a copy of the written approval.

(B) Acceptable Use

Intentional transmission of or receipt of any material in violation of this policy or any applicable United States or state law or regulation is prohibited. Such prohibition applies to, but is not limited to, copyrighted material, threatening or obscene material, and material protected as a trade secret. Employees are expressly

forbidden from creating unauthorized satellite home pages or other similar works and are cautioned to use great care that no statements are made which may appear to express court policy or positions in an unauthorized manner.

These guidelines apply to all Internet services, including but not limited to electronic mail (e-mail, Web browsers, Telnet, and File Transfer Protocol (FTP). Users who are not otherwise connected to the Internet have the ability to receive e-mail over the Internet by virtue of the Court's DCN connection.

Employees are specifically prohibited from using the Internet or e-mail for the following purposes:

- transmitting confidential information (such as that relating to sealed cases, ongoing investigations, or procurement)
- transmitting information protected by copyright or as a trade secret
- advertising a product
- political lobbying
- seeking employment outside the federal judiciary
- making unauthorized commitments or promises which might be perceived as binding the government
- using subscription accounts or commercial services that are not expressly authorized
- posting an unauthorized home page or similar web site
- sending or displaying messages or pictures which may be perceived as offensive, harassing or discriminatory or of an obscene or sexually explicit nature
- using the network connection for commercial purposes or private gain
- using the network for illegal activities
- Using the network in a manner which could reflect poorly. or cause embarrassment to the judiciary

Internet e-mail is inherently unreliable, and frequently an Internet user's e-mail reading software will not be able to process attachments to the e-mail.

Delivery and delivery times are not guaranteed because of unpredictable intermediary system and network outages and slowdowns. Receipt or non-receipt can only be confirmed through confirmation, such as a phone call or other direct communication. The "Receipt Requested" feature may not be honored by some systems on the Internet.

Users are encouraged to use discretion when forwarding large e-mail messages to group addresses or distribution lists. Congestion on the network can be caused by the propagation of "chain letters". Internet e-mail access grants users the ability to subscribe to a variety of e-mail news groups, list servers, and other sources of information. These services are a potentially valuable information tool. In general, low-volume business related lists are not a problem.

(C) Personal Use

The Unit Executive may permit designated staff to use the Internet for personal use on personal time, such as lunch breaks or after hours, on designated computers specified for Internet use. Personal use must adhere to Acceptable Use Guidelines as listed in this Policy. Employees who want to use the Internet on personal time at their normal work area must seek and obtain permission from the Unit Executive. Occasional personal use of such e-mail is authorized so long as it does not interfere with court operations and the conditions of acceptable use are observed.

Such use provides staff with an opportunity to practice Internet skills and explore Internet resources. The office benefits by permitting staff to use their own time to develop these skills. In the current environment of shrinking budgets and the need for staff to take on new and greater responsibilities and develop broader areas of expertise, use of the Internet can be an avenue for training and development of skills. Since the court pays one flat fee for all Internet access, there is no additional cost for personal use of the Internet

Internet use on personal time is similar to allowing staff to use library collections and other resources on personal time and has similar benefits. Just as a staff member who takes a book home visits the library and participates in court events learns about the institution and acquires skills to become a better employee, a staff

member who makes proper use of the Internet on personal time enhances his or her knowledge of and gains skills in information technology. Personal use will increase staff facility with these tools, thus allowing employees to enhance job-related knowledge and skills and provide cost-effective, self-training opportunities.

MONITORING

The court, acting through either the Judges or the Unit Executive, reserves the right to review any material on user accounts and to monitor fileserver space to ensure acceptable use of IT resources. Such monitoring may be conducted without the knowledge or consent of individual users. However, no computer files of individual Judges or Magistrate Judges will be accessed without prior knowledge or permission of that Judge or Magistrate Judge. Unit Executives' files can be accessed without prior knowledge or permission ONLY on approval of the Chief Judge. Exceptions may be permitted for purposes of a formal investigation by law enforcement officials or by the Fourth Circuit Judicial Council prompted by alleged criminal or ethical violations.

All persons utilizing or accessing the court's computer system expressly consent to this monitoring. If monitoring reveals a violation of this policy or of other applicable guidelines or statutes, disciplinary action including termination of employment where appropriate, may result. If such monitoring reveals possible criminal activity, the Chief Judge of the affected court may direct that such evidence be provided to law enforcement personnel.

The Clerk of the U.S. District Court is delegated the authority to promulgate standards for appropriate use by court reporters and the staff of the District Court Clerk's Office. The Chief of the U.S. Probation and Pretrial Office is delegated the authority to promulgate standards for acceptable use for the staff of the Probation and Pretrial Office. The Clerk of the U.S. Bankruptcy Court is delegated the authority to promulgate standards for acceptable use for the staff of the Bankruptcy Court. Each judge will determine what constitutes acceptable use by that judge's staff.

SECURITY

Computer and network security is vitally important to the court's effective operation. Sensitive and mission critical information requires protection against disclosure alteration or loss. Users are the first and best line of protection from compromise of data on judiciary systems. Most breaches of computer security are attributable to computer users. This means that computer security rests in the hands of the users of computer systems.

Court staff may not share their passwords with persons other than their supervisor, systems staff or unit executive. All passwords should be protected to enhance the security of the courts' computer systems. For instance, users should not leave their passwords in locations where the passwords could be easily discovered. For emergency purposes, you must notify the unit executive of all passwords.

If a user discovers a computer security problem, the user should report it immediately to the court's IT Director, without revealing the problem to anyone other than systems staff, a supervisor or a Judge, if possible.

Unauthorized attempts to log onto the court's computer system by or posing as a system administrator may result in immediate cancellation of user privileges and/or other disciplinary action. Any user identified as a security risk may be denied access to the court's computer system.

Users may not install or cause any software to be installed without the express permission of the IT Director. Users may not send or cause e-mail messages to be sent which could harm the security of the court's computer system. Also, users may not dismantle authorized software without the express permission of the IT Director.

Vandalism of the court's computer system will result in immediate cancellation of user privileges and possible disciplinary action. Vandalism includes, but is not limited to, any malicious, intentional attempt to harm, modify, or destroy data of another user and misuse of the Internet, DCN, or other networks which are connected to the court's network. For example, vandalism would include the uploading, creation or intentional transmission of computer viruses.

Social Media

Generally, what you do on your own time is your own business. However, the court has the right to be concerned about your activities outside of work if those activities could adversely affect the interests of the court. Participation in “**social media**” is such an activity.

The phrase “**social media**” refers to activities that integrate technology, telecommunications, and social interaction with words, pictures, videos, and/or audio. It includes participation in social networking sites such as Classmates, Digg, Facebook, Flickr, LinkedIn, LiveJournal, MySpace, Twitter, Yahoo! Groups, YouTube, personal blogs, personal websites, and many others. It also includes activities on wikis, blogs, microblogs, file-sharing sites, podcasts, vodcasts, and virtual worlds. The challenges and risks of the social media environment are acute for persons, such as you, who work in positions where discretion and confidentiality are imperative.

The principles and guidelines applicable to the conduct of employees of the federal judiciary are set out in the *Guide to Judiciary Policy* and the *Code of Conduct for Judicial Employees*. You should be familiar with and comply with the rules and policies set out in these documents, as well as those set out in the court’s IT Systems Use Policy, when participating in social media. Under these principles, you are expected to conduct yourself in a manner that does not detract from the dignity of the court, and to avoid even the appearance of impropriety. If you act contrary to these principles, you will be subject to the full range of disciplinary actions, including termination.

The court establishes the following guidelines for employees to follow as they navigate social media technologies and applications:

Think before you post. A posting on the Internet—whether in the form of text, photos, videos, or audio—can remain accessible long after it is forgotten by the user. You cannot be sure that anything you post on the Internet will be “private” even with your best efforts to ensure privacy. You should not post anything on the

Internet unless you would be comfortable reading about it on the front page of the newspaper.

Speak for yourself, not the court. When you post on the Internet and identify yourself as an employee of the court, whatever you say or do will reflect on the court even if you specifically state you are not speaking for the court. Even if you do not identify yourself as an employee of the court, others may realize that you are and assume you are speaking for the court, so when you post on the Internet you always should use good judgment and careful discretion.

You should not post on social media sites anything that discloses the workings of the court or relates to issues that either are before the court or are likely to come before the court. If you become aware that you have participated in discussions about such matters, you should withdraw from the discussions and contact your supervisor immediately.

Confidentiality. In all interactions and communications via the Internet, make sure you abide by all of the court's confidentiality and disclosure policies. To be safe, you should not disclose anything relating to court business. This includes non-confidential matters relating to the court's internal processes and procedures. You also should make certain you respect copyright, fair use, and financial disclosure laws.

Security. You must take care to avoid posting anything on the Internet that would compromise the security of the courthouse or its personnel. You should not post pictures of court personnel or of the interior of a courthouse. You should use care when disclosing your place of employment. Do not post anything that could put you in a situation where pressure could be applied to you to corrupt the integrity of the judicial system. For example, never post anything that would give private information to the public, such as posting that a judge is on vacation and where.

Do not forget your day job. You should make sure that your on-line activities do not interfere with your job or work commitments. You should keep in mind that, although you may participate in social media, your obligation to the court's values and ethical standards continues after your scheduled work day.

Judges, US Probation Officers and other staff members in performance of official duties, may access social networking sites for the purpose of monitoring

defendant/offender activities. As all internet traffic is logged with Websense, the U.S. Probation Office may use Websense logs to determine the date, time, and approximate time spent on any such site.

- ❖ The Judicial Conference Committee on Codes of Conduct issued **Advisory Opinion** No. 112 with regard to social media, ethics and judicial conduct, and we incorporate this Advisory Opinion into our Social Media Policy to further clarify and enhance our policy.

Guide to Judiciary Policy, Vol. 2B, Ch. 2

Committee on Codes of Conduct

Advisory Opinion No. 112

Use of Electronic Social Media by Judges and Judicial Employees

This opinion provides the Committee's guidance on an array of ethical issues that may arise from the use of social media by judges and judicial employees, particularly members of a judge's personal staff. This guidance is intended to supplement information the Committee developed in 2011 to assist courts with the development of guidelines on the use of social media by judicial employees. See Resource Packet for Developing Guidelines on Use of Social Media for Judicial Employees. The Committee noted in the Resource Packet that "[t]he Code of Conduct for Judicial Employees applies to all online activities, including social media. The advent of social media does not broaden ethical restrictions; rather, the existing Code extends to the use of social media." The Committee also recognizes that electronic social media may provide valuable new tools for the courts, and that some courts have begun to use social media for official court purposes. This opinion is not intended to discourage the official use of social media by the courts in a manner that does not otherwise raise ethics concerns nor is this opinion intended to supplant any social media policy enacted within each judge's chambers which may govern that specific judge's internal chambers' operation. If an individual judge's personal chambers' policy is stricter than that set forth below, the individual judge's policy should prevail.

I. Ethical Implications of Social Media

The use of social media by judges and judicial employees raises several ethical considerations, including: (1) confidentiality; (2) avoiding impropriety in all conduct; (3) not lending the prestige of the office; (4) not detracting from the dignity of the court or reflecting adversely on the court; (5) not demonstrating special access to the court or favoritism; (6) not commenting on pending matters; (7) remaining within restrictions on fundraising; (8) not engaging in prohibited political activity; and (9) avoiding association with certain social issues that may be litigated or with organizations that frequently litigate. These considerations implicate Canons 2, 3D, 4A, and 5 of the Code of Conduct for Judicial Employees, and Canons 2, 3A(6), 4, and 5 of the Code of Conduct for United States Judges. The Committee recognizes that due to the everbroadening variety of social media forums and technologies available, different types of social media will implicate different Canons and to varying degrees. For that reason, many of the proscriptions set forth in this opinion, like those set forth in the Employees' and Judges' Code, are cast in general terms. The Committee's advice is to be construed to further the objective of "[a]n independent and honorable judiciary." Canon 1. Social media include an array of different communication tools that can mimic interpersonal communication on the one hand, and act as a news broadcast to a larger audience on the other. For example, some social media sites can serve primarily as communication tools to connect families, friends, and colleagues and provide for sharing private and direct messages, posting of photos, comments, and articles in a tight-knit community limited by the user's security preferences. The same media, however, can serve to broadcast to a broader audience with fewer restrictions.

Similarly, some social media sites can serve as semi-private communication media depending on how they are used, or can instantly serve as a connection to a large audience. Aside from social communication sites, users also have access to others' sites where they may comment on everything from the posting of a photograph, to a legal or political argument, or to the quality of a meal at a restaurant. This type of media can implicate other concerns since the user is now validating or endorsing the image, person, product, or service. Finally, there are media where the user is personally publishing commentary in the form of blogs. The Committee recognizes that the Canons cover all aspects of communication, whatever form they may take, and therefore offers general advice that can be applied to the specific mode. In

short, although the format may change, the considerations regarding impropriety, confidentiality, appearance of impropriety and security remain the same.

II. Appearance of Impropriety

Canon 2 of the Employees' Code provides: "A judicial employee should not engage in any activities that would put into question the propriety of the judicial employee's conduct in carrying out the duties of the office." Similarly, Canon 2 of the Judges' Code states that "a judge should avoid impropriety and the appearance of impropriety in all activities." The Codes forbid judges and judicial employees from using, or appearing to use, the prestige of the office to advance the private interests of others. Canon 2 therefore is implicated when an employee or judge engages in the use of social media while also listing his or her affiliation with the court. For example, the Committee has advised that a law clerk who chooses to maintain a blog should remove all references to the clerk's employment. The Committee concluded that such reference would implicate Canon 2 concerning the use of the prestige of the office and the appearance of impropriety. The same can be true for a judge if she is using the prestige of the office in some manner in social media that could be viewed as advancing the private interest of another. For example, if the judge is using the media to support a particular establishment known to be frequented by lawyers near the courthouse, and the judge identifies herself as the supporter, the judge has used her office to aid that establishment's success. Similarly, if a judge comments on a blog that supports a particular cause or individual, the judge may be deemed as endorsing that position or individual. The Committee therefore cautions judges to analyze the post, comment, or blog in order to take into account the Canons that prohibit the judge from endorsing political views, engaging in dialogue that demeans the prestige of the office, commenting on issues that may arise before the court, or sending the impression that another has unique access to the Court.

III. Improper Communications with Lawyers or Others

Another example of social media activity that raises concerns under Canon 2 is the exchange of frequent messages, "wall posts," or "tweets" between a judge or judicial employee and a "friend" on a social network who is also counsel in a case pending before the court. In the Committee's view, social media exchanges need not directly concern litigation to raise an appearance of impropriety issue; rather,

any frequent interaction between a judge or judicial employee and a lawyer who appears before the court may “put into question the propriety of the judicial employee’s conduct in carrying out the duties of the office.” Employees’ Code, Canon 2. With respect to judges, communication of this nature may “convey or permit others to convey the impression that they are in a special position to influence the judge.” Judges’ Code, Canon 2B. A similar concern arises where a judge or judicial employee uses social media to comment— favorably or unfavorably—about the competence of a particular law firm or attorney. Of course, any comment or exchange between an attorney and the judge must also be scrutinized so as not to constitute an ex parte communication. At all times, the Court must be screening for potential conflicts with those she communicates with on social media, and the Canon 3C provisions which govern recusal situations may be implicated and may require analysis. The connection with a litigant need not be so direct and obvious to raise ethics concerns. The same Canon 2 concern arises, for example, when a judge or judicial employee demonstrates on a social media site a comparatively weak but obvious affiliation with an organization that frequently litigates before the court (i.e., identifying oneself as a “fan” of an organization), or where a judge or judicial employee circulates a fundraising appeal to a large group of social network site “friends” that includes individuals who practice before the court.

IV. Extrajudicial Activities

Circumstances such as those described above also implicate Canon 4 of both the Employees’ and Judges’ Codes, which govern participation in outside activities. Canon 4 of the Employees’ Code provides that “[i]n engaging in outside activities, a judicial employee should avoid the risk of conflict with official duties, should avoid the appearance of impropriety, and should comply with disclosure requirements.” Canon 4 of the Judges’ Code states that a judge should not participate in extrajudicial activities that detract from the dignity of the judge’s office, interfere with the performance of the judge’s official duties, reflect adversely on the judge’s impartiality, or lead to frequent disqualification. Invoking Canon 4 of the Employees’ Code, the Committee has advised that maintaining a blog that expresses opinions on topics that are both politically sensitive and currently active, and which could potentially come before the employee’s own court, conflicts with Canon 4. Such opinions have the potential to reflect poorly

upon the judiciary by suggesting that cases may not be impartially considered or decided. This advice would also apply to judges' use of social media. A judge would be permitted to discuss and exchange ideas about outside activities that would not pose any conflict with official duties, (e.g., gardening, sports, cooking), yet the judge must always consider whether those outside activities invoke a potentially debatable issue that might present itself to the court, or an issue that involves a political position.

V. Identification of the Judge or Judicial Employee

Canons 2 and 4 are also implicated when a judge or judicial employee identifies himself as such on a social networking site. Through self-description or the use of a court email address, for example, the judge or employee highlights his affiliation with the federal judiciary in a manner that may lend the court's prestige. This issue has previously been presented to the Committee, and it is the Committee's view that judicial employees should, at the very least, be restricted from identifying themselves with a specific judge. See Resource Packet, at 23 (describing a policy allowing judicial employees to identify themselves as an employee of the federal courts generally, without specifying which court or judge, as the "least restrictive" of several suggested recommendations). The Committee also advises against any use of a judge's or judicial employee's court email address to engage in social media or professional social networking. The court employee or judge should consult the court's policies on permitted and prohibited use of court email, and the court's guidance on the employee's conduct while using a court email server and court email address. Similarly, the court email address should not be used for forwarding "chain letter type" correspondences, the solicitation of donations, the posting of property for sale or rent, or the operation of a business enterprise. See Guide to Judiciary Policy, Vol. 15, § 525.50 ("Inappropriate personal use of government-owned equipment includes ... using equipment for commercial activities or in support of commercial activities or in support of outside employment or business activity...." This policy also prohibits use of the email system for "fund-raising activity, endorsing any product or service, participating in any lobbying activity, or engaging in any partisan political activity.")

VI. Dignity of the Court

Furthermore, Canon 4A of the Employees' Code provides that "[a] judicial employee's activities outside of official duties should 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." Certain uses of social media raise concerns under Canon 4A that are not within the ambit of Canon 2. For example, a judge or judicial employee may detract from the dignity of the court by posting inappropriate photos, videos, or comments on a social networking site. The Committee advises that all judges and judicial employees behave in a manner that avoids bringing embarrassment upon the court. Due to the ubiquitous nature of information transmitted through the use of social media, judges and employees should assume that virtually all communication through social media can be saved, electronically retransmitted to others without the judge's or employee's knowledge or permission, or made available later for public consumption.

VII. Confidentiality

Canon 3D of the Employees' Code provides in relevant part that a "judicial employee should avoid making public comment on the merits of a pending or impending action" Canon 3D further states that a judicial employee "should never disclose any confidential information received in the course of official duties except as required in performance of such duties, nor should a judicial employee employ such information for personal gain." Canon 3A(6) of the Judges' Code provides that "[a] judge should not make public comment on the merits of a matter pending or impending in any court."

Canon 4D(5) of the Judges' Code provides that "a judge should not disclose or use nonpublic information acquired in a judicial capacity for any purpose unrelated to the judge's official duties." Most social media forums provide at least one—and often several—tools to communicate instantaneously with anywhere from a few to thousands of individuals. Any posting on a social networking site that, for example, broadly hints at the likely outcome in a pending case, divulges confidential case processing procedures, or reveals non-public information about the status of jury deliberations violates Canon 3D. Such communications need not

be case-specific to implicate Canon 3; even commenting vaguely on a legal issue without directly mentioning a particular case may raise confidentiality concerns and impropriety concerns. Thus the Committee advises that in all online activities involving social media, the employee may not reveal any confidential, sensitive, or non-public information obtained through the court. The Committee further advises that judicial employees who are on the judge's personal staff refrain from participating in any social media that relate to a matter likely to result in litigation or to any organization that frequently litigates in court. Lastly, the Committee reminds that former judicial employees should also observe the same restrictions on disclosure of confidential information that apply to a current judicial employee, except as modified by the appointing authority. **VIII. Political Activity**

Canon 5 of the Employees' Code specifically addresses political activity: "A judicial employee should refrain from inappropriate political activity." Similarly, Canon 5 of the Judges' Code states that a "judge should not ... publicly endorse or oppose a candidate for public office" or "engage in any other political activity." Judges' Code, Canon 5A(2), 5(C). In the social media context, judges and judicial employees should avoid any activity that affiliates the judge or employee to any degree with political activity. This includes but is not limited to posting materials in support of or endorsing a candidate or issue, "liking" or becoming a "fan" of a political candidate or movement, circulating an online invitation for a partisan political event (regardless of whether the judge/employee plans to attend him/herself), and posting pictures on a social networking profile that affiliates the employee or judge with a political party or partisan political candidate. The Committee reminds that while Canon 5B of the Employees' Code permits certain nonpartisan political activity for some judicial employees, the Codes specify that all judges, members of judges' personal staffs, and high-level court officers must refrain from all political activity.

IX. Conclusion

In light of the reality that users of social media can control what they post but often lack control over what others post, judges and judicial employees should regularly screen the social media websites they participate in to ensure nothing is posted that may raise questions about the propriety of the employee's conduct, suggest the presence of a conflict of interest, detract from the dignity of the court, or,

depending upon the status of the judicial employee, suggest an improper political affiliation. We also note that the use of social media also raises significant security and privacy concerns for courts and court employees that must be considered by judges and judicial employees to ensure the safety and privacy of the court.

While the purpose of this opinion is to provide guidance with respect to ethical issues arising from the use of social media by judges and judicial employees, the Committee also notes that social media technology is subject to rapid change, which may lead to new or different ethics concerns. Each form of media and each factual situation involved may implicate numerous ethical Canons and may vary significantly depending on the unique factual scenario presented in this rapidly changing area of communication. There is no “one size fits all” approach to the ethical issues that may be presented. Judges and judicial employees who have questions related to the ethical use of social media may request informal advice from a Committee member or a confidential advisory opinion from the Committee.

Notes for Advisory Opinion No. 112

1 The Code of Conduct for Judicial Employees (“the Employees’ Code”) defines a member of a judge’s personal staff as “a judge’s secretary, a judge’s law clerk, and a courtroom deputy clerk or court reporter whose assignment with a particular judge is reasonably perceived as being comparable to a member of the judge’s personal staff.” The term judicial employee also covers interns, externs, and other court volunteers.

March 2014

ACCEPTANCE OF TERMS AND CONDITIONS

All terms and conditions set forth above are applicable to all users of the court's computer system unless specifically exempted by this policy, by applicable law, or by permission of the Chief Judge. These terms and conditions reflect the entire agreement of the parties and supersede all prior oral or written agreements and understandings of the parties. These terms and conditions will be governed and interpreted in accordance with the laws of the State of North Carolina and the United States of America

I understand and agree to abide by this policy. I understand that any violation of this policy may constitute grounds for discipline and/or criminal prosecution. I understand that should I commit a violation or knowingly assist another person in the violation of this policy my access privileges may be restricted or revoked or other disciplinary action may be taken against me.

DATE: ___/___/___

USER SIGNATURE: _____

PRINTED NAME: _____

EMPLOYING OFFICE: _____

CONFIDENTIALITY STATEMENT

One of the most important obligations of judicial employees is to ensure that nonpublic information learned in the course of employment is kept confidential. In the performance of job duties, employees may have access to files, records, draft materials, and conversations that are, under the Code of Conduct for Judicial Employees or by practice of the court, confidential. Canon 3D of the Code sets forth the minimum standard:

A judicial employee should avoid making public comment on the merits of a pending or impending action and should 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 should never disclose any confidential information received in the course of official duties except as required in the performance of such duties, nor should a judicial employee employ such information for personal gain. A former judicial employee should observe the same restrictions on disclosure of confidential information that apply to a current judicial employee, except as modified by the appointing authority.

1. Confidential Information

Confidential information means information received in the course of judicial duties that is not public and is not authorized to be made public. This includes information received by the court pursuant to a protective order or under seal; expressly marked or designated by a judge to be kept confidential; or relating to the deliberative processes of the court or an individual judge. Examples of confidential information are:

- (a) the substance of draft opinions or decisions;
- (b) internal memoranda, in draft or final form, prepared in connection with matters before the court;
- (c) the content or occurrence of conversations among judges or between a judge and judicial employees concerning matters before the court;
- (d) the identity of panel members or of the authoring judge before release of this information is authorized by the court;
- (e) the authorship of per curiam opinions or orders;
- (f) the timing of a decision, order, or other judicial action, including the status of or progress on a judicial action not yet finalized (except as authorized in accordance with Section 2.C.);
- (g) views expressed by a judge either in casual conversation or in the course of discussions about a particular matter before the court;
- (h) any subject matter the appointing authority has indicated should not be revealed, such as internal office practices, informal court procedures, the content or occurrence of statements or conversations, and actions by a judge or staff; and
- (i) any matter on which you have been, are, or will be working.

Information that is not considered confidential includes court rules, published court procedures, public court records including the case docket, and information disclosed in public court documents or proceedings. However, judicial employees should not disclose, or make, public or private statements about the merits or decision making process concerning past, pending, or future cases even if those statements entail the use of only non-confidential materials.

2. Nondisclosure

A. Unauthorized disclosure. To promote public confidence in the integrity of the judicial system and to avoid impropriety, illegality, or favoritism, or any appearance thereof, it is critical that confidential information not be disclosed by a judicial employee. No past or present judicial employee may disclose or make available confidential information, except as authorized in accordance with Section 2.C.

B. Inadvertent disclosure. Sometimes breaches of confidentiality do not involve intentional disclosure but are the result of overheard remarks, casual comments, or inadequate shielding of sensitive materials. Judicial employees should take care to prevent inadvertent disclosure of confidential information by avoiding:

- (1) case-related conversations and other discussions of confidential information in public places within the court, such as the library, hallways, elevators, and cafeteria, either in person or by telephone or cellular phone;
- (2) case-related conversations and other discussions of confidential information at bar association meetings, law schools, other gatherings of noncourt persons, or in public places, either in person or by telephone or cellular phone;
- (3) exposure of confidential documents to the view of noncourt persons;
- (4) visible display of confidential documents in public places such as a library, on public transportation, or in a photocopier or scanner to which noncourt persons have access, and the internet;
- (5) substantive discussions with counsel, litigants, or reporters about the merits of a matter before the court;
- (6) use of writing samples from judicial employment without adequate redaction and approval of the appointing authority; and
- (7) internet and other electronic exchanges (anonymously, pseudonymously, or otherwise) about the court or its cases, including email, instant messaging, social networking postings (such as Twitter and Facebook), blog posts, and other internet comments or postings.

C. Authorized disclosure. Confidential information is authorized to be disclosed in the following circumstances:

- (1) pursuant to a statute, rule, or order of the court, or authorization from the appointing authority;
- (2) pursuant to a valid subpoena issued by a court or other competent body; and
- (3) to report an alleged criminal violation to the appointing authority or other appropriate government or law enforcement official.

D. Continuing obligation. Confidentiality obligations do not end when judicial employment ceases or when a matter is completed or a case is closed. Former judicial employees should observe the same restrictions on disclosure of confidential information that apply to current employees, except as modified in accordance with Section 2.C. Confidentiality restrictions continue to apply with respect to open as well as closed and completed matters.

Judicial employees should consult their appointing authority if there is any doubt whether a certain disclosure is authorized before any disclosure is made.

3. Individual courts, judges and/or other appointing authorities may institute stricter standards than those outlined herein. They may also limit who is authorized to speak for the court or agency and the topics that specific judicial employees are allowed to address. The policies described in this document do not supersede or in any way override any stricter disclosure standards that a court, a judge, or other appointing authority may institute.

4. This Model Confidentiality Statement does not address, and in no way limits, the remedy or penalty that a court, judge, or other appointing authority may impose for a breach of an employee's duties of confidentiality, but all judicial employees should be aware that the Judiciary considers all such breaches to be serious, given the need to maintain the public's confidence in the impartiality of the judicial system.

5. Acknowledgment

To emphasize the importance of the duty of confidentiality, the court asks that you sign this statement as an acknowledgment that you have read it, understand it, and agree to abide by it, and further that you understand violations of these confidentiality obligations may result in disciplinary action.

Signature

Date