

PRINCIPLES OF CONDUCT FOR COURT PERSONNEL

Preamble

WHEREAS international and domestic law recognize as fundamental the principle that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal established by law in the determination of rights and obligations and of any criminal charge.

WHEREAS competent and impartial administrative personnel and support staff are essential if the courts are to fulfil their role in upholding this principle.

WHEREAS public confidence in the judicial system is dependent on the perceived integrity of all personnel who play any role in the administration of justice.

AND WHEREAS the principal responsibility for court administration, including supervision and disciplinary control of administrative personnel and support staff, rests with the judiciary.

THE FOLLOWING PRINCIPLES have been approved by the Judicial Group on Strengthening Judicial Integrity, comprising the Chief Justices or Senior Justices of ten countries, and are intended to establish standards of conduct for administrative personnel and support staff within the judicial system. They are designed to provide guidance to judges and to afford the judiciary a tool of management. They are intended to supplement and not to derogate from rules of law and conduct which bind such personnel.

1. SCOPE

- (1) These principles shall apply to all personnel other than judges who are directly or indirectly involved in the court's operation. Court personnel who are no longer employed in the judiciary but who acquired, while still employed, confidential information as defined in paragraph 3(1) are subject to paragraph 3(6).
- (2) The term "personnel" includes court registrars or those who have important supervisory responsibilities. Each jurisdiction shall identify the particular court personnel to whom these principles shall apply.

2. FIDELITY TO DUTY

- (1) Court personnel shall not use or attempt to use their official position to secure unwarranted privileges or exemptions for themselves or for others.
- (2) Court personnel shall not solicit, accept, or agree to accept any gift, favour or anything of value based upon any understanding that the official actions, explicit or implicit, of such personnel would be influenced thereby.
- (3) Court personnel shall not discriminate by dispensing special favours to anyone. They shall not allow kinship, rank, position or favours from any party or person to influence their official acts or duties.

- (4) Court personnel shall not request or accept any fee or compensation, beyond what they receive or are entitled to in their official capacity, for advice or assistance given in the course of their employment.
- (5) Court personnel shall use the resources, property and funds under their official custody or control in a judicious manner and solely in accordance with prescribed statutory and regulatory guidelines or procedures.

3. CONFIDENTIALITY

- (1) Court personnel shall not disclose to any unauthorized person any confidential information acquired by them while employed in the judiciary, whether such information came from authorized or unauthorized sources.
- (2) Confidential information available to specific individuals by reason of statute, court rule or administrative policy shall be provided only by court personnel authorized to do so.
- (3) Court personnel shall report confidential information to the appropriate authority when they reasonably believe this information is or may be evidence of a violation of law or of unethical conduct. Court personnel shall not be disciplined for disclosing such confidential information to an appropriate authority.
- (4) Court personnel are not precluded from responding to inquiries concerning court procedures, but they shall not give legal advice. Standard court procedures, such as the method for filing an appeal or starting a small claims action, may be communicated orally or summarized in writing and made available to litigants.
- (5) Court personnel shall not initiate or repeat ex parte communications from litigants, witnesses or attorneys to judges, jury members or any other person.
- (6) Former court personnel shall not disclose confidential information acquired by them during their employment in the judiciary when disclosure by current court personnel of the same information would constitute a breach of confidentiality. Any disclosure in violation of this provision may constitute contempt of court.
- (7) Confidential information means information that has not been made a matter of public record relating to pending cases, as well as information not yet made public concerning the work of any judge relating to pending cases, including notes, drafts, research papers, internal discussions, internal memoranda, records of internal deliberations and similar papers. The notes, drafts, research papers, internal discussions, internal memoranda and similar papers that a judge uses in preparing a decision or order shall remain confidential even after the decision or order is made public.

4. CONFLICT OF INTEREST

- (1) Court personnel shall avoid conflicts of interest in the performance of official duties. They are required to exercise utmost diligence in becoming aware of conflicts of interest, disclosing conflicts to an appropriate authority, and terminating them when they arise.

- (a) A conflict of interest exists when:
 - i. the court personnel's objective ability or independence of judgment in performing official duties is impaired or may reasonably appear to be impaired, or
 - ii. when the court personnel, or their immediate family, or their business or other financial interest, would derive financial gain because of the personnel's official act.
- (b) No conflict of interest exists if any benefit accrues to court personnel as a member of a profession, business or organization to the same extent as any other member of such profession, business or organization who does not hold a position within the judiciary.
- (c) The term, "immediate family" includes the following, whether related by blood, marriage or adoption: spouse, son, daughter, 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, and any other close relative or person who lives in the employee's household. The term "spouse" includes a de facto spouse or like domestic relationship.

(2) Court personnel shall not:

- (a) enter into any contract with the judiciary for services, supplies, equipment, or lease or sale of property, apart from the employment contract relating to the personnel's position; nor use that position to assist any member of the personnel's immediate family in securing a contract with the judiciary in a manner not available to any other interested party.
 - (b) receive tips or other compensation, or reward or inducement, for assisting or attending to parties engaged in transactions with, or involved in proceedings in, the judiciary.
 - (c) participate in any official action involving a party with whom either the court personnel or any member of the personnel's immediate family is negotiating for future employment.
 - (d) knowingly employ or recommend for employment any member of the court personnel's immediate family.
 - (e) solicit or accept any gift, loan, gratuity, discount, favour, hospitality or service under circumstances from which it is, or could be, reasonably inferred that a major purpose of the donor is to influence the court personnel in performing official duties.
- (3) To secure conformity with the above principles, court personnel who have authority to enter into or approve contracts for the judiciary shall file a financial disclosure statement with the designated authority at the beginning and upon termination of employment in such position, and annually while so employed. The disclosure shall follow the guidelines established by the designated authority, and includes all sources of personal and business income, including investments and

immoveable property, as well as all known income received by their spouses or dependent children.

- (4) The position in the judiciary of every court personnel shall be the personnel's primary employment. "Primary employment" means the position that ordinarily consumes the normal working hours of the court personnel and requires the personnel's exclusive attention in performing official duties. Outside employment may be allowed only if it complies with all the following criteria:
 - (a) The outside employment is not with a person or entity that practises law before the courts or conducts business with the judiciary;
 - (b) The outside employment is not incompatible with the performance of the court personnel's duties and responsibilities;
 - (c) The outside employment does not require the practice of law;
 - (d) The outside employment does not require or induce the court personnel to disclose confidential information acquired while performing official duties;
 - (e) The outside employment shall not be with the executive or legislative branch of government unless specifically authorized by both employers;
 - (f) Where a conflict of interest exists or may reasonably appear to exist or where the outside employment reflects adversely on the integrity of the court, the court personnel shall not accept the outside employment.

5. PERFORMANCE OF DUTIES

- (1) Court personnel shall at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours.
- (2) Court personnel shall carry out their responsibilities as public servants in as courteous a manner as possible.
- (3) Court personnel shall not alter, falsify, destroy or mutilate, or fail to make required entries on, any record within their control. This provision does not prohibit alteration or expungement of records or documents pursuant to a court order.
- (4) In performing official duties, court personnel shall not discriminate, nor manifest by word or conduct, bias or prejudice based on race, religion, national or ethnic origin, disability, age, gender, marital status, sexual orientation, social or economic status, or political affiliation or opinion.
- (5) Court personnel shall not recommend private attorneys to litigants, prospective litigants, or anyone dealing with the judiciary.
- (6) Court personnel shall expeditiously enforce rules and implement orders of the court within the limits of their authority.
- (7) Court personnel shall not be compelled to perform any work or duty outside the proper scope of their employment.