

# New Mexico Judicial Branch Code of Conduct for Judicial Employees



Adopted by the  
State of New Mexico Supreme Court  
Effective: February 9, 2010  
Supreme Court Order # 10-8500



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**Note** The table of contents, index and page numbers used in this version of the Code are for convenience in studying this document and are not part of the Code.

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## PREAMBLE

A fair and independent judicial system is essential to the administration of justice. Proper conduct by Judicial Employees inspires public confidence and trust in the Judicial Branch. There are certain principles that should govern the conduct of all Judicial Employees. This Code of Conduct (“Code”) provides uniform standards for the conduct of all Judicial Employees other than Judges. It is intended to complement the Code of Judicial Conduct, Rule 21-001 et seq. NMRA that governs the conduct of Judges and should be interpreted in a manner consistent with that Code.

The minimum standards contained in this Code do not preclude the adoption of, nor do they usurp more rigorous standards set by law, Supreme Court order, local rule or policy. Violations of this Code shall be enforced locally and in the same manner as violations of the New Mexico Judicial Branch Personnel Rules (NMJBPR).

## DEFINITIONS

The following terms have specific meanings within the context of this Code.

“**Canon**” is a fundamental principle governing the conduct of Judicial Employees. The broad statement of principle appearing before each major section of the Code is the CANON. There are five Canons in this Code.

“**Domestic Partner**” shall mean a person who is in a mutually exclusive committed relationship with an employee and who both share a primary residence for 12 or more consecutive months and who are jointly responsible for the common welfare of each other and who share financial obligations, as evidenced by an affidavit of domestic partnership executed by the employee and the other person, as required by Executive Order 2008-101.

“**Family Member**” shall mean and include a relation by blood or marriage within the third degree, who is a spouse, parent, mother-in-law, father-in-law, stepparent, child, son-in-law, daughter-in-law, stepchild, brother, stepbrother, brother-in-law, sister, stepsister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great grandchild and great grandparent.

“**Household Member**” shall mean persons living together at the same residence.

“**Judge**” shall mean any person who performs judicial functions within the judicial system as defined in the Code of Judicial Conduct who is a Supreme Court Justice, Court of Appeals Judge, District Judge, Metropolitan Judge, Magistrate Judge, or a *pro tempore* judge.

“**Judicial Branch**” shall mean the Supreme Court, the Court of Appeals, Administrative Office of the Courts, District, Metropolitan and Magistrate Courts, the Supreme Court Building Commission, the New Mexico Compilation Commission and the Supreme Court Law Library.

**“Judicial Employee”** shall mean any employee of the Judicial Branch, whether at-will, exempt, non-exempt, permanent, part-time, full-time, probationary or temporary, including Domestic Violence Special Commissioners, Domestic Relations Hearing Officers, Child Support Hearing Officers and Special Masters, but does not include Judges.

**“Judicial Entity”** shall mean any court or administrative group within the Judicial Branch.

## CANON 1

### ***JUDICIAL EMPLOYEES SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIAL BRANCH***

**Independence and Integrity.** An independent and honorable Judicial Branch is indispensable to justice in our society. Therefore Judicial Employees shall maintain high standards of conduct, integrity, honesty, and truthfulness so that the independence of the Judicial Branch is preserved.

Commentary:

The fundamental attitudes and habits of individual Judicial Employees reflect on the integrity and independence of the Judicial Branch and are of vital importance in maintaining the confidence of the public in the Judicial Branch. Honesty and truthfulness are paramount.

## CANON 2

### ***JUDICIAL EMPLOYEES SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL THEIR ACTIVITIES FOR THE JUDICIAL BRANCH***

**A. Compliance with Law and Public Confidence.** Judicial Employees shall respect and comply with the law; and with respect to their employment by the Judicial Branch and in the performance of their duties for the Judicial Branch, shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the Judicial Branch.

Commentary:

As public servants, Judicial Employees shall respect and comply with the law, personnel rules, policies and these canons. Public confidence in the Judicial Branch is maintained by the willingness of each employee to live up to this standard. When faced with conflicting loyalties, Judicial Employees shall seek first to maintain public trust.

A Judicial Employee shall not express to any person not an employee of the court a personal opinion about a pending case or disclose the extent of his or her involvement in the decision-making process. This prohibition does not extend to public statements made in the course of one's official duties or to an explanation of court procedures.

**B. Gifts and Extra Compensation.** Judicial Employees shall not solicit, accept, agree to accept or dispense any gift, favor or loan either for themselves or on behalf of another based on the understanding either explicit or implicit that such would influence an official action of the court. Unsolicited gifts of *de minimus* or insignificant value may be allowed if authorized by the Administrative Authority.

**Judicial Employees shall not request or accept any fee or compensation beyond their regular compensation for assistance given as part of their official duties for the Judicial Branch.**

Commentary: Examples of improper conduct include seeking a favor or receiving a gift at any time, or the promise of one at any time, whether it is money, services, travel, food, entertainment, or hospitality that could be reasonably viewed as a reward for past or future services. Employees may accept awards presented in recognition of public service. -If authorized by the Administrative Authority employees may receive unsolicited refreshments and items of insignificant value during the holidays or when attending a conference, seminar or meeting. Receiving fees or compensation not provided by law in return for public service is not permissible. Accepting, agreeing to accept, giving or requesting a gift with an understanding that any judicial business or proceeding would be influenced may be a violation of state law.

**C. Abuse of Position.** Judicial Employees shall not use or attempt to use their positions as employees of the Judicial Branch to influence or secure special privileges or exemptions for themselves or any other person.

Commentary:

Judicial Employees shall never influence or attempt to influence the assignment of cases, perform any discretionary or ministerial function in a manner that improperly favors any litigant, or imply that they are in a position to do so.

Judicial Employees shall not, for example, seek or provide special consideration regarding traffic citations or parking violations, provide special treatment to particular parties or matters, discuss the merits of cases pending before the Judicial Branch (except as required as part of one's official position) or give the appearance of preferential treatment.

**D. Employment of Family, Domestic Partner, Household Members.** No Judicial Employee shall knowingly employ, advocate or recommend for employment any Family Member, Domestic Partner or Household Member. (Ref: NMJBPR 4.06)

**E. Use of Public Resources.** Judicial Employees shall use the resources, property and funds of the Judicial Branch in a judicious manner and solely in accordance with statutes, policies and procedures.

Commentary:

Judicial Employees shall not, for example, knowingly make false entries on time cards or personnel records; backdate a judicial document without the Judicial Entity's consent; falsely claim reimbursement for mileage or expenses; misuse the telephone, computer, internet, instant messaging, facsimile machine, or copying machine; or take supplies for private use.

## CANON 3

### ***JUDICIAL EMPLOYEES SHALL PERFORM THEIR DUTIES IMPARTIALLY AND DILIGENTLY***

A. **Professionalism.** Judicial Employees shall be respectful, dignified, patient, prompt and courteous to everyone, including jurors, witnesses, co-workers, supervisors and others who come in contact with the Judicial Branch.

B. **Impartiality.** Judicial Employees shall perform their duties impartially, and shall not be influenced by kinship, domestic partnership, a household member, social or economic status, political interests, public opinion or fear of criticism or reprisal.

Commentary:

Judicial Employees who think they may be unduly influenced in a particular matter shall discuss the situation immediately with a supervisor, administrator or judge.

C. **Bias and Prejudice.** Judicial Employees shall perform their duties without bias or prejudice and shall not manifest bias or prejudice by words or conduct.

Commentary: Judicial Employees come into contact with a variety of people from many walks of life. They may be of a different race, sex, religion, national origin, ancestry, age, spousal affiliation, sexual orientation, gender identity or socioeconomic status. They may have a physical or mental handicap, disability or medical condition, or they may have an actual or perceived health condition. Regardless, Judicial Employees shall perform their duties without any bias or prejudice toward those with whom they come in contact including fellow employees and members of the public.

D. **Information and Records.** Judicial Employees, when authorized, shall furnish timely, accurate, information and shall provide the public access to public judicial proceedings and records according to established procedures and subject to applicable law. Judicial Employees shall not disclose any confidential information received in the course of official duties, except as required in the performance of such duties, or use such information for personal gain or advantage.

Commentary:

Some information received by Judicial Employees while performing their duties is confidential and shall not be revealed. Sometimes confidential matters are revealed through innocent and casual remarks about pending or closed cases, about participants in litigation, or about juries, any of which could seriously prejudice a case or harm a person's standing in the community. Proper care must be taken at all times to safeguard confidential and private information.

**E. Legal Advice. Judicial Employees shall be responsive to inquiries regarding standard court procedures but shall not give legal advice unless it is required as part of one's official position.**

Commentary:

Judicial Employees may assist the public, consistent with the Judicial Branch's resources, with matters within the scope of their responsibilities and knowledge. Additional information in this regard is found at NMRA 23-113. In performing their official duties, Judicial Employees shall not recommend the names of private attorneys to the public unless the Judicial Employee works in a court-approved lawyer-referral program, but may refer members of the public to bar associations or legal aid organizations.

**F. Education, Licensing and Certification. Judicial Employees shall comply with judicial education requirements and maintain any licensing or certification required for their positions.**

**G. Communication with Judges. Unless as required as part of an employee's official duties, Judicial Employees shall not communicate personal knowledge about the facts of a pending case to the Judge assigned to the case and shall not make or repeat remarks about a pending case before the Judicial Branch that might affect the outcome of the proceeding.**

**H. Duty to Report. Judicial Employees shall immediately report any violation or perceived violation of the law by a Judicial Employee or Judge. Judicial Employees shall also immediately report any violation of this code by another Judicial Employee. Reports shall be made to the applicable supervisor, administrator, Judge or as provided by rule, order or policy as applicable within the Judicial Entity. Minor infractions need not be reported. Judicial Employees shall not be subject to retaliation for reporting violations if such report is made in good faith. Judicial Employees shall report to their Court Executive Officer or Administrative Authority any personal violation of the law or charge immediately.**



Commentary:

This obligation does not prohibit reporting illegal conduct to a law enforcement agency or other appropriate authority. In addition, Judicial Employees shall cooperate with the Judicial Standards Commission and may communicate with the Commission at any time, without fear of reprisal, for the purpose of discussing potential or actual judicial misconduct. Minor matters such as a parking ticket, jay walking, littering, or speeding (less than 10 miles per hour over the posted speed limit) need not be reported. Other infractions that might reflect adversely on the Judicial Branch such as charges or convictions of assault, battery, domestic violence, fraud and driving while intoxicated must be reported to the appropriate person.

## **CANON 4**

### ***JUDICIAL EMPLOYEES SHALL CONDUCT THEIR OUTSIDE ACTIVITIES AS TO MINIMIZE CONFLICTS WITH THEIR EMPLOYMENT RESPONSIBILITIES***

**A. General.** Judicial Employees shall avoid all outside activities that reflect negatively upon the Judicial Branch or that might detrimentally affect their ability to perform their duties for the Judicial Branch.

**B. Outside Activities.** Outside Activities shall include but are not limited to outside employment (including self-employment), business activities and non-compensated activity. Before Judicial Employees engage in outside employment, notice must be given and approval granted as per rules and policies of the Judicial Branch. Except as provided by law or authorized by the Judicial Branch, Judicial Employees shall not engage in any outside activity that:

- 1) involves an organization or a private employer that regularly conducts business with the Judicial Branch;
- 2) is conducted during the Judicial Employee's normal working hours;
- 3) places the Judicial Employee in a position of conflict with the Judicial Branch, with his or her official role at the Judicial Entity or otherwise creates a conflict of interest;
- 4) requires the Judicial Employee to appear regularly in judicial or State of New Mexico administrative agency proceedings;
- 5) identifies the Judicial Employee with the Judicial Branch or gives an impression that the employment or activity is on behalf of the Judicial Branch;
- 6) is detrimental to the interests of the Judicial Entity or the Judicial Branch;

- 7) is directly related to the practice of law, unless it is approved *pro bono* work or *pro se*; or
- 8) requires use of judicial equipment, materials, supplies, telephone or Internet services, office space, computer time, or facilities.

Commentary:

These provisions should be read to not inhibit the exercise of constitutional rights such as freedom of speech, association or religion.

In order to avoid any employment that is in conflict with a Judicial Employee's official role within the Judicial Branch, a Judicial Employee shall not, for example, work for a police department, public defender, or prosecutor. Judicial Employees may become foster parents, and may teach, lecture, speak, or write on any subject, so long as any payment does not create the appearance of impropriety, any presentation or document clarifies that the Judicial Employee is not representing the Judicial Entity or the Judicial Branch, and any confidential documents and information are not disclosed.

**C. Conflict of Interest. Judicial Employees shall manage personal and business matters so as to avoid situations that may lead to conflict, or the appearance of conflict, in the performance of their employment for the Judicial Branch.**

- 1) Judicial Employees shall inform the appropriate supervisor of any potential conflict of interest involving their duties.
- 2) Judicial Employees shall withdraw from participation in a court proceeding or judicial business in which they have a personal, business, or family interest or in which a Family Member, Domestic Partner or Household Member is involved or that may actually or appear to influence the outcome of the judicial proceeding or business.

Commentary:

Every Judicial Employee has a legal and moral obligation to identify, disclose and avoid conflicts of interest. A potential conflict of interest exists when an official action or decision in which a Judicial Employee participates may specially benefit or harm a personal, business or employment interest of the Judicial Employee, the Judicial Employee's Family Member, Household Member or Domestic Partner, or the Judicial Employee's close friends. In a judicial proceeding, a potential conflict of interest arises if a Judicial Employee's business associate, Family Member, Household Member, Domestic Partner or close friend is an interested party. Even if no impropriety actually occurs, a conflict of interest creates an appearance of impropriety that can seriously undermine the public's confidence and trust in the judicial system. If withdrawal from a matter would cause unnecessary hardship, the Judge, Court Executive Officer or Administrative Authority may authorize the Judicial Employee to participate in the matter if:

- a. permitted by this Code,

- b. no reasonable alternative exists, and
- c. safeguards, including full disclosure to the parties involved, ensure official duties are properly performed.

Judicial Employees shall not process any paperwork filed by themselves, a family member, domestic partner, household member or close friend. For example, if the son of a Judicial Employee who is a clerk in a judicial district files a case in that court, the related Judicial Employee should not process the paperwork.

**D. Solicitation.** Judicial Employees shall not use their positions or offices to solicit funds. Unless, the solicitation is part of an employee's official position.

Commentary:

A Judicial Employee should not request any contribution of funds under circumstances in which the employee's close relationship to a Judge or employment in the Judicial Branch could reasonably be viewed to give weight to the request.

## **CANON 5**

### ***JUDICIAL EMPLOYEES SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITIES***

**A. Right to Vote.** The right to vote is a fundamental right and all Judicial Employees are encouraged to exercise that right.

**B. Political Activities.** Engaging in any political activity shall be done as a private citizen and in accordance with Judicial Branch rules and policies. NMJBPR Section 7 governs political activity and should be referenced in regard to this canon.

Commentary:

Specifically, no campaign literature, buttons, pens, or signs (with the exception of bumper stickers as described below) are allowed on court property. Employees may campaign for the candidate of the employee's choice on the employee's own time but shall not draw attention in any way to the fact that the employee is employed by the court. For example, employees may wear campaign buttons or hand out literature on the employee's own time. Employees may have a bumper sticker on the employee's car and park in the court parking lot, so long as the employee does not park in a space reserved for court personnel. Employees may place a sign in the employee's yard. Employees may place a sign larger than a bumper sticker on the employee's vehicle but may not park the vehicle on court property while it bears the larger sign. The intent of the code is not to inhibit anyone from engaging in political activity when not at work. The intent is to ensure that all courts and court entities maintain, and are perceived to maintain, neutrality on political questions.

**C. Opinions and Political Subjects.** Consistent with the rules and policies, Judicial Employees may express opinions on all political subjects and candidates provided that Judicial Employees do not give the impression that the Judicial Entity or the Judicial Branch endorses political candidates or supports political causes.

Commentary:

The Judicial Branch seeks to maintain neutrality in political matters. While Judicial Employees may express and act on personal opinions about political candidates and issues as other citizens, they should maintain neutrality in action and appearance when performing their duties on behalf of the Judicial Branch. This does not apply to Judicial Employees whose positions permit political advocacy on the part of the Judicial Entity or the Judicial Branch. To this end, Judicial Employees should separate their political activities from their employment duties for the Judicial Branch.

**D. Workplace Activity.** During scheduled work hours or at the workplace, Judicial Employees shall not engage in political campaign activities and shall not display literature, badges, buttons, stickers, signs, or other political advertisements on behalf of any party, political committee, agency, or candidate for political office.

**E. Elective Office.** Except to the extent that such would be precluded by the Hatch Act, Judicial Employees may be candidates for partisan and non-partisan elected office provided they follow the requirements set forth in the New Mexico Judicial Branch Personnel Rules and Policies. (NMJBPR Section 7)

**F. Political Pressure.** Judicial Employees shall not use their official authority or position, directly or indirectly, to influence or attempt to influence any other Judicial Employee to become a member of any political organization or to take part in any political activity.

**G. Judicial Campaign Activity.** Judicial Employees may voluntarily participate in judicial campaign activities and may voluntarily contribute funds to a campaign, but only through a Judge's fund-raising committee. However, Judicial Employees shall not be required as a condition of employment or otherwise to participate in political activities or be required to contribute funds for any political purpose.

H. Political Discrimination. Judicial Employees shall not discriminate in favor of or against any subordinate or any applicant for Judicial Branch employment on account of permitted political activities.

By order of the Supreme Court of New Mexico.

Done in Santa Fe, New Mexico, this 9<sup>th</sup> day of February, 2010.

\_\_\_\_\_/s/\_\_\_\_\_  
Chief Justice Edward L. Chávez

\_\_\_\_\_/s/\_\_\_\_\_  
Justice Patricio M. Serna

\_\_\_\_\_/s/\_\_\_\_\_  
Justice Petra Jimenez Maes

\_\_\_\_\_/s/\_\_\_\_\_  
Justice Richard C. Bosson

\_\_\_\_\_/s/\_\_\_\_\_  
Justice Charles W. Daniels

... A TRUE COPY

*Katherine P. Johnson*  
Clerk of the Supreme Court  
of the State of New Mexico

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IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

February 9, 2010

10-8500

IN THE MATTER OF THE ADOPTION  
OF THE NEW MEXICO JUDICIAL BRANCH  
CODE OF CONDUCT FOR JUDICIAL EMPLOYEES

ORDER

WHEREAS, a fair and independent judicial system is essential to the administration of justice and conduct by judicial employees inspires public confidence and trust in the Judicial Branch of Government; and

WHEREAS, there exist certain principles that should govern the conduct of all judicial employees; and

WHEREAS, this matter came on for consideration by the Court upon recommendation of the Judicial Branch Personnel Rules Committee to adopt a Code of Conduct for Judicial Employees, and the Court having considered said recommendation and being sufficiently advised, Chief Justice Edward L. Chávez, Justice Patricio M. Serna, Justice Petra Jimenez Maes, Justice Richard C. Bosson, and Justice Charles W. Daniels concurring;

NOW, THEREFORE, IT IS ORDERED that the recommendation

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hereby is GRANTED and the Code of Conduct for Judicial Employees  
hereby is APPROVED; and

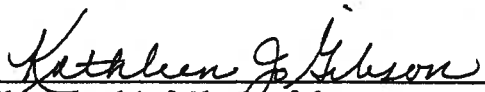
IT IS FURTHER ORDERED that the Code of Employee Conduct shall  
be posted on the Judicial Branch website <[www.nmcourts.gov](http://www.nmcourts.gov)> and that  
each judicial employee shall be notified of its adoption; and

IT IS FURTHER ORDERED that the Code of Employee Conduct or  
reference thereto shall be included in any new employee orientation  
materials.

IT IS SO ORDERED.

WITNESS, Honorable Chief Justice Edward L. Chávez  
of the Supreme Court of the State of New Mexico, and  
the seal of said Court this 9th day of February, 2010.

(SEAL)

  
\_\_\_\_\_  
Kathleen Jo Gibson, Chief Clerk of the Supreme Court  
of the State of New Mexico