

LIMITATIONS ON POLITICAL ACTIVITIES OF JUDICIAL EMPLOYEES

Canon 4 of the Code of Conduct for Judicial Employees (“employee code”) places significant limitations on the political activities of judicial employees. For the full text of the employee code click [here](#) to see Arizona Code of Judicial Administration, Section 1-303. Here are the answers to frequent questions about Canon 4.

1. *What is the purpose of Canon 4?*

The judiciary has a long tradition of neutrality in political matters in order to preserve public trust and confidence that the judiciary is independent, fair, and impartial. The Code of Judicial Conduct strictly limits the political activities of judges. Judicial employees are not held to the same standards as judges unless they work so closely with a judge to be identified with a judge or with the court. All judicial employees are, however, expected to act in ways that will not compromise the neutrality of the judiciary. Thus, 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 department, unless their positions permit political advocacy on the part of the judiciary. To this end, judicial employees should separate their political activities from their employment duties.

2. *Who is covered by Canon 4?*

The employee code applies to the employees and volunteers of all Arizona courts. The term "judicial employee" in Canon 4 refers to “any person other than a judge who performs duties in the judicial department of this state, as defined in Article 6 Section 1 of the state Constitution as a full time employee, a part time employee or a volunteer.” Judicial employees may also be covered by city and county personnel rules and policies and other codes of conduct which may impose greater limitations on political activity than the employee code except a judicial employee may not be absolutely prohibited from campaigning for a judicial department office.

3. *Which employees have the most limited political activities under the code because they work directly with judges?*

Court managers, courtroom clerks and a judge’s personal staff have the most limitations because they are so closely associated with judges. What they do and say is often attributed to the court itself or to judges.

4. *Who are "court managers?"*

Court managers are high-level administrative staff who work in such close proximity to judges that their actions, decisions or conduct might be viewed as the official acts or positions of the judiciary. In the trial courts, court managers include court administrators, chief probation officers, juvenile court directors, and any other similar staff designated by the presiding judge or clerk of the superior court in each county, except the elected clerk of court. In the appellate courts, court managers include clerks of the court, chief staff attorneys, the administrative director, deputy director, division directors and other staff designated by the chief justice or chief judges. The actual job description of a court manager may vary considerably from court to court, so it is important to consider what the court manager does and not just the title of the position. Court managers who do not act like court administrators and do not speak for the court as a whole may not be subject to the same limitations as the court's top administrator. It is up to the designating officials to determine which local court managers are included within the definition.

5. *Who are "courtroom clerks?"*

"Courtroom clerks" are defined in the employee code as a staff person of the elected clerk of court, the chief clerk or a judge of a justice or municipal court, who works regularly in the courtroom with a judge. Due to their close association with a judge, their actions and comments on political issues might be attributed to the judge.

6. *Who are "personal staff"?*

"Personal staff" are judicial assistants, secretaries, law clerks, bailiffs, and court reporters employed by, assigned regularly to, or reporting directly to a judge. Again, their political activities may be attributed to the judges with whom they work closely on a day-to-day basis.

7. *What limitations apply to judges' personal staff, courtroom clerks and court managers?*

Members of a judge's personal staff, courtroom clerks, and court managers are governed by the same political limitations as judges contained in Canon 4 of the Code of Judicial Conduct and by the general provisions of Canon 4 of the employee code and may not hold any elective office. For example, Rule 4.1 (A) of the Code of Judicial Conduct states a judge shall not

- (1) act as a leader in, or hold an office in, a political organization;
- (2) make speeches on behalf of a political organization or another candidate for public office;
- (3) publicly endorse or oppose another candidate for any public office;
- (4) solicit funds for or pay an assessment to a political organization or candidate, make contributions to any candidate or political organization in excess of the amounts permitted by law, or make total contributions in excess of fifty percent of the cumulative total permitted by law. See, e.g., A.R.S. § 16-905.

(5) actively take part in any political campaign other than his or her own campaign for election, reelection or retention in office;

(6) personally solicit or accept campaign contributions other than through a campaign committee authorized by Rule 4.4.

These prohibitions apply to personal staff, courtroom clerks and managers involvement in election activities other than judicial and clerk of court elections. For the full text of the Code of Judicial Conduct click [here](#).

8. *Do these limitations apply to an employee who only serves part time as a member of a judge's personal staff, a courtroom clerk or a court manager?*

Yes. If an employee has job responsibilities within the court or government in addition to serving on a judge's personal staff, as a courtroom clerk, or as a court manager, then the employee is subject to the greater limitations for all purposes. The relationship with the judge exists whether or not the duties are performed full time.

9. *What, if any, political activity by judicial employees is permitted at the workplace?*

During scheduled work hours or at the workplace, judicial employees may not engage in political campaign activities and shall not display literature, badges, stickers, signs, or other political advertisements on behalf of any party, political committee, agency, or candidate for political office. A personal vehicle parked in a parking lot reserved for court employees or used for court business is covered by these work place limitations. Judicial employees may participate in activities regarding measures to improve the law, the legal system, or the administration of justice as assigned as part of their job duties. This is the same standard that applies to judges.

10. *What political activities may a judicial employee engage in like any other citizen?*

When not performing their duties for the court, judicial employees may engage in a wide variety of political activities including: expressing political opinions; attending meetings for the purpose of becoming informed about candidates for office and political issues; talking personally with friends and neighbors; signing nomination or recall petitions; voting; and, subject to limitations, contributing to candidates, political parties and campaign committees for the election or defeat of political candidates. (See [Judicial Ethic Advisory Opinion 02-01](#))

11. *What additional political activities by a judicial employee who is not a court manager, member of a judge's personal staff, or a courtroom clerk are permitted?*

As long as a judicial employee does not give the impression the judiciary itself endorses a political candidate or supports a political cause, the employee may circulate candidate nomination petitions or recall petitions; engage in activities to advocate the election or defeat of any candidate; solicit or encourage contributions to be made directly to candidates or campaign committees which are contributing to candidates or advocating the election or defeat of candidates. Serving as a member or officer of a political party committee is not expressly addressed in the code. Consequently, eligibility of court employees to hold these positions is based upon local personnel rules and laws and general considerations of consistency of these activities with court employment. An employee can best avoid the impression political activity is on behalf of the judiciary by not identifying himself or herself as a court employee while engaging in these activities or, if asked, explaining that he or she is simply participating as a concerned citizen. All permitted political activities must be conducted outside of normal working hours and away from the work place to avoid any association with the court.

12. *May a member of a judge's personal staff, a courtroom clerk or a court manager be a candidate for or hold elective office outside the judicial department?*

No. Like judges, under Rule 4.5 (A) of the Code of Judicial Conduct these employees are required to resign to run for any elective office outside the judicial department. However, under Rule 4.5 (B) they are permitted to be a candidate for appointive office including appointment to a fill a vacancy in an elective office without resigning. Likewise, other employees are not required to take a leave of absence in order to apply for appointment to an office. (See Appendix A)

13. *May a member of a judge's personal staff, a courtroom clerk, a court manager and any other court employee be a candidate for judicial department elective office?*

Yes. Any judicial employee may run for judicial department office without resigning or taking a leave of absence if the incumbent is not seeking election or the office is not in the court that employs the employee. However, such a candidacy must be consistent with all other ethical rules and employee candidates must avoid any political activity that interferes with court duties. (See Appendix A)

14. *May employees who are not on a judge's personal staff, courtroom clerks and court managers be candidates for partisan elective office?*

Yes. A judicial employee not in one of these positions may be a candidate for any partisan elective office if the employee is authorized to take an unpaid leave of absence. The leave of absence must begin prior to any public declaration of an intention to seek office, including the filing of campaign papers, and prior to any fund-raising for the employee's campaign. An employee campaigning for office while on a leave of absence from court employment must publicly disclose this status and, if elected, resign from court employment prior to assuming office. Incumbent elected clerks of court may be candidates for their offices without taking a leave of absence and are not subject to the partisan elective office provision of Canon 4. (See Appendix A)

15. *May employees who are not on a judges personal staff, courtroom clerks or court managers be candidates for and hold nonpartisan elective office?*

Yes. Judicial employees may be candidates for nonpartisan elective office, e.g., school boards, without taking a leave of absence or separating from court employment if the judicial employee first seeks permission from the chief justice, chief judge, or presiding judge of the court or the clerk of court, as applicable, who determines that the office sought is consistent with judicial employment. Employees in this situation must still comply with all other aspects of the code and related provisions of local election laws. If elected to a nonpartisan office an employee may continue court employment as long as the office does not interfere with court duties. (See Appendix A)

16. *How are judicial employees protected from political pressure?*

Judicial managers and supervisors are prohibited from using 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.

17. *How are judicial campaign activities limited?*

Judges, elected clerks of the court, and court managers or supervisors may not require subordinate judicial employees to participate in political activities or personally receive funds from judicial employees for any political purpose. However, judicial employees, including members of a judge's personal staff, courtroom clerks and court managers, may voluntarily participate in a judge or clerk's campaign activities and may voluntarily contribute funds to a campaign, but only through a judge or clerk's fund-raising committee.

18. *How are judicial employees and applicants protected against political discrimination?*

Judges and judicial employees are prohibited from discriminating in favor of or against any subordinate or any applicant for judicial employment due to permitted political activities.

19. *Are judicial employees subject to other election laws and personnel rules and policies?*

Yes. The employee code sets out the minimum standards of employee conduct but does not preclude the adoption of more rigorous standards by state and local governments, court order or local rule. However, the rule allowing campaigning for judicial department elective office in particular circumstances does supersede any conflicting local rules or policies.

APPENDIX A

Effect of Candidacy for Public Office on Judicial Employment

	Court Managers, Judge's Personal Staff & Courtroom Clerks	Other Court Employees
Seek partisan office	Resign	Approved leave of absence (LOA)
Hold partisan office	N/A	Resign
Seek non-partisan office	Resign	Continue working with permission
Hold non-partisan office	N/A	Continue working with permission
Seek judicial department office (Clerk of Court, JP)	Continue working if different court or no incumbent, otherwise resign	Continue working if different court or no incumbent, otherwise take approved LOA
Hold judicial department office	Resign	Resign