

TOHONO O'ODHAM RULES OF COURT

Section 14: Canons of Conduct for Judicial Employees of the Tohono O'odham Nation

PREAMBLE

A fair and independent court system is necessary to the administration of justice. Proper conduct by judicial employees inspires public confidence and trust in the courts. Certain principles govern the conduct of all judicial employees. This code of conduct provides uniform standards for the conduct of all judicial department officers and employees other than judges. It is intended to reinforce the Judges' Canons of Conduct that govern the judges and should be read in a way consistent with the Judges' Canons of Conduct. Violations of this section will be enforced locally in the same way as violations of local personnel rules that apply to judicial employees.

DEFINITIONS

These terms have specific meanings within the context of this code.

A **Canon** is a basic rule governing the conduct of judicial employees. The broad statement appearing before each major section of the code is the canon. There are five canons in this code.

Court Administrators or **Division Managers** are high-level administrative staff who work in close proximity to judges such that their actions, decisions, or conduct might be viewed as official acts or positions of the judiciary.

Court Clerks are staff, including those with the title "clerk" and others such as court officers, who are assigned to work in courtrooms with judges.

Judge means any person who performs judicial functions within the judicial system of the Tohono O'odham Nation.

Personal staff means assistants, secretaries, law clerks, court officers, and court clerks employed by, assigned regularly to, or reporting directly to a judge.

Relative means a spouse, child, grandchild, parent, grandparent, or other person with whom the judicial employee has a close familial relationship, including any person living in the employee's household.

CANON 1: Judicial Employees Must Uphold the Integrity and Independence of the Judiciary.

- (a) **Independence.** To preserve the independence of the judiciary, employees must maintain high standards of conduct.

- (b) **Integrity.** Employees must maintain and observe the highest standards of integrity, honesty, and truthfulness in their professional and personal dealings.

Commentary:

The attitudes and work habits of individual employees reflect on the integrity and independence of the judiciary. This independence is vitally important in maintaining the confidence of the public in the judiciary. Honesty and truthfulness are essential to the judiciary.

CANON 2: Judicial Employees Must Avoid Impropriety and the Appearance of Impropriety in All of Their Actions.

- (a) **Compliance with law.** All employees must respect and follow the law. Employees must act at all times to promote public confidence in the integrity and impartiality of the judiciary.

Commentary:

As public servants, employees should act in ways that do not violate the law or the requirements of these Canons. Public confidence in the judiciary is only sustained by the willingness of each employee to live up to these standards. When faced with conflicting loyalties, judicial employees should first seek to maintain public trust.

- (b) **Gifts and extra compensation.** Employees must not solicit or accept gifts or favors from counsel, litigants, or other people doing business with the court. Employees must not request or accept any additional payments for help given as part of their official duties.

Commentary:

Improper conduct includes seeking a favor, receiving a gift or the promise of a gift—whether money, services, travel, food, entertainment, or hospitality—which could be viewed as a reward for past or future services. Receiving fees or compensation not provided by law in return for public services may be a criminal offense and may subject the employee to criminal charges under Tohono O’odham law. Accepting food and refreshments of insignificant value when attending a conference, seminar, business lunch, or meeting is allowed. It is also okay to accept or exchange gifts and social hospitality on customary occasions (i.e. birthdays, weddings, or holidays) with friends outside of the workplace. Employees may accept awards presented in recognition of public service. The standard to remember here is that employees should always conduct themselves to inspire public confidence in their role as judicial employees.

- (c) **Abuse of position.** Employees must not use or try to use their positions within the judiciary to secure privileges or exemptions for themselves or another.

Commentary:

Judicial employees must not seek or provide special consideration in any matters pending before the Court, including traffic citations. Employees must not provide special treatment to parties or cases. Employees must not discuss the merits of cases pending before the court. Employees must not be inappropriately friendly with litigants, counsel, or anyone who does business with the Court

in order to prevent giving the appearance of preferential treatment. Employees should consider how opposing parties and counsel might view the situation. It may be a crime to accept, agree to accept, give, or request a gift or favor with an understanding that any Court business or proceeding would be influenced. It may subject the employee to criminal charges under the laws of the Tohono O'odham Nation.

- (d) **Employment of relatives.** Employees must not be appointed by, or be directly supervised by, a relative or by a supervisor reporting directly to a relative. Employees must not try to influence the employment or advancement of a relative by the court unless they are providing letters of reference or verifying references.

Commentary:

A Court Administrator or Division Manager's employment of relatives may be cause for suspension or dismissal from employment by the Tohono O'odham Judiciary.

- (e) **Use of public property.** Employees must not use public funds, property, or resources wastefully. Employees must not use resources for private purposes that are not pre-authorized by judicial or other administrative authorities.

Commentary:

Employees should not knowingly make false entries on time cards or personnel records. Employees must not backdate a court document or falsely claim reimbursement for mileage or expenses. Employees must not misuse the fax or copy machines, or telephones. Employees must not take office supplies home for private use unless allowed to do so in relation to any work-from-home assignments. This conduct may be seen as theft and charged as a crime under the laws of the Tohono O'odham Nation.

- (f) **Former employees.** Employees must not do business with a former judicial employee:
 - (1) Anyone who held a position involving substantial discretion over that part of the court's activities;
 - (2) Who left the court's employment during the preceding 12 months; and,
 - (3) Whose participation could harm the interests of the judiciary or be perceived as favoritism.

Commentary:

This section does not apply to former employees who create a small business, such as jewelry making or food vending, which in no way interferes with the daily business of the Court. Abuse of former employment may be a crime and punishable under the laws of the Tohono O'odham Nation.

CANON 3: Judicial Employees Must Perform Their Duties Impartially and Diligently.

- (a) **Professionalism.** Employees must be patient, prompt, and courteous to litigants, jurors, witnesses, counsel, and all others who come in contact with the court.
- (b) **Impartiality.** Employees must perform their duties impartially, and must not be influenced by kinship, social or economic status, political interests, public opinion,

or fear of criticism or reprisal.

Commentary:

Employees who think they may be influenced in a particular matter should discuss the situation with a supervisor, administrator, or judge to determine their next steps. The employee may need to be removed from that particular case to maintain the Court's impartiality.

- (c) **Prejudice.** Employees must perform their duties without bias or prejudice. Employees must not behave or speak with bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.
- (d) **Information and records.** Authorized employees must provide accurate, timely information. Employees must provide access to public court proceedings and records according to established procedures. An employee must not disclose any confidential information received in their official duties, except as required in the performance of those duties. An employee must not use confidential information for personal gain or advantage.
- (e) **Legal assistance.** Employees may help members of the public in identifying available procedural options. Employees may help members of the public in understanding and following Court procedures. Employees must not advise a particular course of action.

Commentary:

Employees may help members of the public with matters that fall within the scope of that employee's responsibilities and knowledge, depending on the Court's available resources. This assistance may include:

- Giving information within court records;
- Providing examples of forms or pleadings;
- Explaining Court Rules, procedures, practices, due dates, and how to access these documents on the Court's website; and
- Helping to complete forms with information provided by a member of the public.

Although a member of the public may be informed of the options for addressing a matter, employees should not advise members of the public on a particular course of action. Employees should try not to answer questions outside their knowledge and experience. Unless the employee works in a court-approved lawyer-referral program, employees should not recommend the names of private counsel to members of the public, with the exception of providing the list of practitioners accepting clients which is available on the Court's website. Employees may refer members of the public to bar associations or legal aid organizations for help.

- (f) **Education.** Employees must follow education requirements, maintaining any licensing or certification required for their position.
- (g) **Communication with judges.** Employees must not communicate personal knowledge about the facts of a pending case to the judge assigned to the case.

Employees must not make or repeat remarks about a case pending before the Court that might affect the fairness or outcome of the proceeding.

- (h) **Duty to report.** Employees must report to a supervisor, administrator, or judge any violation of the law or this code by another judicial employee. Employees making a report in good faith must not be subject to retaliation.

Commentary:

Reporting illegal conduct to a law enforcement agency or other appropriate authority is allowed. Employees must cooperate with the Court regarding any alleged misconduct, including by a judge, without fear of retaliation.

CANON 4: Judicial Employees Must Manage Their Activities Outside of Work to Minimize Conflicts with Their Employment Responsibilities.

- (a) **General activities.** Employees must conduct activities outside of work to avoid a negative effect on the Court or upon that employee's ability to perform their job.
- (b) **Financial activities.** Except as provided by law or Court Rule, employees must not engage in any business activity or secondary employment that:
 - (1) Involves an organization or a private employer that regularly conducts business with the Court;
 - (2) Is conducted during the employee's normal working hours;
 - (3) Places the employee in a position of conflict with his or her official role in the Judicial Branch;
 - (4) Requires the employee to appear regularly in judicial or administrative agency proceedings;
 - (5) Identifies the employee with the Judicial Branch or gives an impression the employment or activity is on behalf of the Branch; or,
 - (6) Requires use of court equipment, materials, supplies, telephone services, office space, computer time, or facilities.

Commentary:

An employee must avoid employment that conflicts with an employee's official role within the judiciary. For example, an employee should not work for a police department, public defender, or prosecutor. Judicial employees may become foster parents. Employees may teach, lecture, or write on any subject, so long as any payment received is at a rate that does not exceed the average amount paid to others in that field. The employee must make sure any presentations or documents clarify that the employee is not representing the Judicial Branch. Further, they must not disclose confidential documents or information.

- (c) **Conflict of interest.** Employees must handle personal and business matters to avoid any situation that may lead to a conflict, or the appearance of a conflict, in the performance of their employment.
 - (1) Employees must inform the appropriate supervisor of any potential conflicts of interest involving their duties.

- (2) Any member of a judge's personal staff or the courtroom clerk must inform the presiding judge of any potential conflict of interest, connection with the people involved in a case, or activities of outside employment in a case pending before the judge where there is a possible appearance of undue influence on the Court.
- (3) Employees must withdraw from participation in any Court proceeding or Court business in which they have a personal, business, or familial interest that can influence the outcome of court proceedings or business.

Commentary:

Employees have a duty to identify, disclose, and avoid conflicts of interest. A potential conflict of interest exists when an official action or decision in which an employee participates clearly benefits or harms a personal, business, or employment interest of the employee, the employee's relative, or the employee's close friends. In a judicial proceeding, a potential conflict of interest arises if a judicial employee's business associate, relative, or close friend is an interested party. Even if nothing dishonest, unacceptable, or unsuitable actually occurs, a conflict of interest creates the appearance of those things and can seriously undermine the public's confidence and trust in the court system.

If withdrawal of an employee from a particular case would cause unnecessary hardship in the Court's operations, the Chief Judge or Court Administrator may allow the employee's participation. An employee should only participate if the Code of Judicial Conduct allows their involvement, no reasonable alternative exists, and safeguards, including full disclosure to the parties involved, ensure official duties are properly performed. The key in this circumstance is that the Court maintains transparency to the public to cultivate public confidence and trust.

- (d) **Solicitation.** Employees must not use their positions or offices to solicit funds from the general public, but can solicit funds for outside activities as long as the solicitation takes place after work hours and does not interfere with the employee's duties.

Commentary:

Supervisors should not personally request contributions of funds to any organization or activity from a subordinate. Supervisors may inform other employees to bring awareness about a general fund-raising campaign. A member of a judge's personal staff, the courtroom clerk, or a court manager should not request a contribution from any employee when that employee's close contact with a judge could reasonably be viewed to give weight to the request.

CANON 5: Judicial Employees Must Not be Involved in Political Activities that Give an Appearance of Judicial Endorsement.

- (a) **General activities.** Employees may participate in political activities that do not give the impression that the judiciary itself endorses a particular political candidate or political cause. The only exception is when an employee has been assigned to do so in order to improve the law, the legal system, or the administration of justice.

Commentary:

The judiciary seeks to maintain neutrality in political matters. While employees may express personal opinions about political candidates and speak out on issues like other members of the public, they should maintain neutrality in action and appearance when performing their jobs, unless their positions allow political advocacy by the judiciary. To this end, employees should separate their political activities from employment duties.

- (b) **Personal staff, courtroom clerks, and managers.** Members of a judge’s personal staff, courtroom clerks, and court managers have the same political limitations contained in the Canons of Judicial Conduct. These employees may not hold any elected office.
- (c) **Elected office.** Employees who are not members of a judge’s personal staff, courtroom clerks, or court managers may be candidates for elected office under these conditions:
 - (1) Such employees may be candidates for elected office if the employee takes an unpaid leave of absence.
 - (2) The leave of absence must begin before any public declaration of their intention to seek office, filing campaign papers, or any campaign fundraising.
 - (3) The employee must publicly disclose that he or she is on a leave of absence from court employment.
 - (4) If elected, the employee must resign from court employment before assuming office.
- (d) **Workplace activity.** During scheduled work hours or while at the workplace, employees must not engage in political campaigning activities. Employees must not display literature, badges, stickers, signs, or other political advertisements on behalf of any party, political committee, agency, or candidate for political office. Employees allowed to do so may participate in approved activities about measures to improve the law, the legal system, or the administration of justice.
- (e) **Political pressure.** Employees must not use their official authority or position, directly or indirectly, to influence or try to influence any other employee to become a member of any political organization or to take part in any political activity.

Section History

The “Canons of Conduct for Judicial Employees of the Tohono O’odham Nation” were adopted by the court by Administrative Order 01-05 effective January 4, 2005. Amended, reorganized, and renumbered to combine the Administrative Orders into the Tohono O’odham Rules of Court on November 1, 2011. Amended by the 2023 Tohono O’odham Rules of Court. Amended by the 2024 Tohono O’odham Rules of Court.