

RULES OF THE CHIEF JUDGE
PART 50. RULES GOVERNING CONDUCT OF NONJUDICIAL COURT EMPLOYEES
Text is current through June 15, 2006.

Section 50.1 Code of ethics for nonjudicial employees of the Unified Court System.

PREAMBLE: A fair and independent court system is essential to the administration of justice. Court employees must observe and maintain high standards of ethical conduct in the performance of their duties in order to inspire public confidence and trust in the fairness and independence of the courts. This code of ethics sets forth basic principles of ethical conduct that court employees must observe, in addition to laws, rules and directives governing specific conducts, so that the court system can fulfill its role as a provider of effective and impartial justice.

(I.) Court employees shall avoid impropriety and the appearance of impropriety in all their activities.

(A.) Court employees shall respect and comply with the law.

(B.) Court employees shall not use or attempt to use their positions or the prestige of judicial affiliation to secure privileges or exemptions for themselves or others.

(C.) Court employees shall not solicit, accept or agree to accept any gifts or gratuities from attorneys or other persons having or likely to have any official transaction with the court system.

(D.) Court employees shall not request or accept any payment in addition to their regular compensation for assistance given as part of their official duties, except as provided by law.

(E.) Court employees shall not perform any function in a manner that improperly favors any litigant or attorney.

(II.) Court employees shall adhere to appropriate standards in performing the duties of their office.

(A.) Court employees shall perform their duties properly and with diligence.

(B.) Court employees shall be patient and courteous to all persons who come in contact with them.

(C.) Court employees shall not discriminate, and shall not manifest by words or conduct bias or prejudice, on the basis of race, color, sex, sexual orientation, religion, creed, national origin, marital status, age or disability.

(D.) Court employees shall not disclose any confidential information received in the course of their official duties, except as required in the performance of such duties, nor use such information for personal gain or advantage.

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(III.) Court employees shall conduct their outside activities in a manner that does not conflict with their employment duties.

(A.) Court employees shall not engage in outside employment or business activities that interfere with the performance of their official duties or that create an actual or appearance of conflict with those duties.

(B.) Court employees shall not engage in political activity during scheduled work hours or at the workplace.

Section 50.2 Rules governing conduct for nonjudicial court employees not contained in this Part.

(a) *Appointments by the Court.* Court employees may not be appointed as guardians, guardians *ad litem*, court evaluators, attorneys for alleged incapacitated persons, receivers, referees (to sell real property) or persons designated to perform services for any of these, as provided in section 36.2(c)(3) of the Rules of the Chief Judge (22 NYCRR 36.2[c][3]).

(b) *Financial disclosure.* Court employees who are required to file financial disclosure statements in accordance with section 40.2 of the Rules of the Chief Judge [22 NYCRR 40.2] must comply with the requirements of that section.

(c) *Political activity of personal appointees of judges.* Court employees who are personal appointees of judges on the judges' staffs may not engage in political activities as set forth in section 100.5(C) of the Chief Administrator's Rules Governing Judicial Conduct (22 NYCRR 100.5[C]).

Section 50.3 Dual employment in the court service.

(a) No employee regularly employed in a position in the classified service in the Unified Court System shall, while continuing to hold such position, accept appointment or employment in any other position or title, or in any capacity whatsoever, on a full-time or part-time basis, either in the classified or unclassified service, in another department or agency of the State or a political subdivision, or in the Legislature or the Judiciary, for which employment compensation or salary is payable, without the previous consent in writing of his or her appointing authority, except that such consent shall be subject to approval by the Chief Administrator of the Courts for employees of courts other than the appellate courts. Such written consent shall be required, in each case, for each such additional appointment or employment accepted or undertaken by such employee.

(b) A willful violation of the provisions of this section shall be deemed sufficient cause for disciplinary action, including removal.

Section 50.4 Obstruction of court service rights; false representation; impersonation in examination; misuse or misappropriation of examination material.

(a) Any person who shall willfully, by himself or herself, or in cooperation with other persons, defeat, deceive or obstruct any person in respect of his or her right of examination, registration, certification, appointment, promotion or reinstatement, pursuant to the provisions of this Part or who shall willfully and falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this Part or aid in so doing, or who shall willfully make any false representations concerning the same, or concerning the person examined, or who shall willfully furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified, or who shall impersonate any other person, or permit or aid in any manner any other person to impersonate him or her, in connection with any registration or application or request to be registered, shall for each offense be subject to the provisions of section 106 of the Civil Service Law.

(b) A person who shall:

- (1) impersonate, or attempt to or offer to impersonate, another person in taking an examination held pursuant to this Part;
- (2) take, or attempt to take or offer to take, such an examination in the name of any other person;
- (3) procure or attempt to procure any other person to falsely impersonate him or her or to take, or attempt to take or offer to take, any such examination in his or her name;
- (4) have in his or her possession any questions or answers relating to any such examination, or copies of such questions or answers, unless such possession is duly authorized by the appropriate authorities;
- (5) sell or offer to sell questions or answers prepared for use in any such examination;
- (6) use in any such examination any questions or answers secured prior to the administration of the examination or secure the questions or secure or prepare the answers to the examination questions prior to the administration of the examination, unless duly authorized to do so by the appropriate authorities; or
- (7) disclose or transmit to any person the questions or answers to such examination prior to its administration, or destroy, falsify or conceal the records or results of such examination from the appropriate authorities to whom such records are required to be transmitted in accordance with this Part, unless duly authorized to do so by the appropriate authorities;

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shall be subject to the provisions of section 50(11) of the Civil Service Law. Additionally, a person who is found by the appropriate administrative authority to have violated this section, in addition to any disciplinary penalty that may be imposed, shall be disqualified from appointment to the position for which the examination is being held and may be disqualified from being a candidate for any civil service examination for a period of five years.

Section 50.5 Prohibition against certain political activities; improper influence.

(a) *Recommendations based on political affiliations.* No recommendation or question under the authority of this Part shall relate to the political opinions or affiliations of any person whatever; and no appointment or selection to or removal from an office or employment within the scope of this Part shall be in any manner affected or influenced by such opinions or affiliations. No person in the Unified Court System is for that reason under any obligation to contribute to any political fund or to render any political service, and no person shall be removed or otherwise prejudiced for refusing so to do. No person in the Unified Court System shall discharge or promote or reduce, or in any manner change the official rank or compensation of any other person in the Unified Court System, or promise or threaten so to do, for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose. No person in the Unified Court System shall use his or her official authority or influence to coerce the political action of any person or body or to interfere with any election.

(b) *Inquiry concerning political affiliations.*

(1) No person shall directly or indirectly ask, indicate or transmit orally or in writing the political affiliations of any employee in the Unified Court System or of any person dependent upon or related to such an employee, as a test of fitness for holding office. A violation of this subdivision shall be subject to the provisions of subdivision 2 of section 107 of the Civil Service Law. Nothing herein contained shall be construed to prevent or prohibit inquiry concerning the activities, affiliation or membership of any applicant or employee in any group or organization which advocates that the government of the United States or of any state or of any political subdivision thereof should be overturned by force, violence or any unlawful means.

(2) No question in any examination or application or other proceeding pursuant to this Part shall be so framed as to elicit information concerning, nor shall any other attempt be made to ascertain, the political opinions or affiliations of any applicant, competitor or eligible, and all disclosures thereof shall be disregarded. No discrimination shall be exercised, threatened or promised against or in favor of any applicant, competitor or eligible because of his or her political opinions or affiliations.

(c) *Political assessment.* No employee of the Unified Court System shall, directly or indirectly, use his or her authority or official influence to compel or induce any other employee of the Unified Court System to pay or promise to pay any political assessment, subscription or contribution. Every employee who may have charge or control in any building, office or room occupied for any governmental purpose is hereby authorized to prohibit the entry of any person,

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and he or she shall not knowingly permit any person to enter the same for the purpose of making, collecting, receiving or giving notice therein, of any political assessment, subscription or contribution; and no person shall enter or remain in any such office, building or room, or send or direct any letter or other writing thereto, for the purpose of giving notice of, demanding or collecting a political assessment; nor shall any person therein give notice of, demand, collect or receive any such assessment, subscription or contribution. No person shall prepare or take any part in preparing any political assessment, subscription or contribution with the intent that the same shall be sent or presented to or collected from any employee subject to the provisions of this Part, and no person shall knowingly send or present any political assessment, subscription or contribution to or request its payment of any employee. Any person violating any provision of this subdivision shall be subject to the provisions of subdivision 3 of section 107 of the Civil Service Law.

(d) *Prohibition against promise of influence.* Any person who, while holding any public office, or in nomination for, or while seeking a nomination or appointment for any public office, shall corruptly use or promise to use, whether directly or indirectly, any official authority or influence, whether then possessed or merely anticipated, in the way of conferring upon any person, or in order to secure or aid any person in securing any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon the consideration that the vote or political influence or action of the last-named person, or any other, shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt condition or consideration, shall be subject to the provisions of subdivision 4 of section 107 of the Civil Service Law. Any public officer, or any person having or claiming to have any authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal or increase or decrease of salary of any public officer, who shall corruptly use, or promise, or threaten to use any such authority or influence, directly or indirectly in order to coerce or persuade the vote or political action of any citizen or the removal, discharge or promotion of any officer or public employee, or upon any other corrupt consideration, shall also be subject to the provisions of subdivision 4 of section 107 of the Civil Service Law.

(e) *Political organizations.* No employee of the Unified Court System may hold an elective office in a political party, or a club or organization related to a political party, except that an employee may be a delegate to a judicial nominating convention or a member of a county committee other than the executive committee of a county committee.

Section 50.6 Practice of law.

(a) A lawyer who is employed full-time in any court or agency of the Unified Court System shall not maintain an office for the private practice of law alone or with others, hold himself or herself out to be in the private practice of law, or engage in the private practice of law except as provided in this section.

(b) Subject to prior written application and approval as to each professional engagement, a person referred to in subdivision (a) of this section may engage in the private practice of law as to matters not pending before a court or a governmental agency, in uncontested matters in the Surrogate's

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Court, uncontested accountings in the Supreme Court and other *ex parte* applications not preliminary or incidental to litigated or contested matters. Such approval shall continue only to the completion of the particular engagement for which permission was obtained, except that prior approval for the provision of *pro bono* services, authorized under subdivision (c) of this section, may be granted on an annual basis with respect to an organization or project that provides such services to persons unable to afford counsel. Prior approval must be obtained from:

- (1) the Chief Judge of the Court of Appeals for lawyers employed in that court;
- (2) the Presiding Justice of the appropriate Appellate Division for lawyers employed by an Appellate Division; and
- (3) the Chief Administrator of the Courts for lawyers employed in every other court or court-related agency in the Unified Court System.

(c)

- (1) Persons referred to in subdivision (a) of this section may provide *pro bono* legal services, which do not interfere with the performance of their jobs, in contested or uncontested matters, except those brought in the courts of their own employment.
- (2) *Pro bono* services in any contested matter shall be performed under such written terms and conditions as may be specified by the approving authority designated in paragraph (b)(1), (2) or (3) of this section.
- (3) No provision of legal services or related activities authorized pursuant to this section may take place during usual working hours unless appropriate leave is authorized and charged. No public resources may be used in any such connection. Reasonable precautions must be taken in all cases by approving authorities and authorized employees to avoid actual and perceived conflicts of interest and the actual or perceived lending of the prestige or power of the public offices or positions of the employees and conveying the impression that such employees are in special positions to exert influence.

(d) An employee of the Unified Court System who is employed on a part-time basis shall not participate directly or indirectly as a lawyer in any contested action or proceeding in the court in which he or she serves, or in any other practice of law which is incompatible with or which would reflect adversely upon his or her position or the performance of his or her duties. Such employee may participate as a lawyer in uncontested actions or proceedings in the court in which he or she serves only with prior written approval of the Chief Administrator of the Courts.

(e) No partner or associate of a part-time law secretary or law clerk shall practice law before the justice or judge by whom such law secretary or law clerk is employed.

(f) Each approving authority or designee shall report annually to the Chief Administrator of the Courts the number of requests and approvals. With respect to *pro bono* representation, each

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authorized employee shall report annually to the Chief Administrator the number of representations and *pro bono* hours performed.