



National Association for Court Management

Strengthening Court Professionals

Conference Call of the Ethics Subcommittee

Thursday, March 24, 2022

2:00 p.m. (EDT)

Zoom Meeting ID: 710 387 5466 Passcode: 021675

1. Welcome and Introductions of any new participants
12 participants were on the call in total.
2. Approval of the Minutes from October 28, 2021
Minutes were approved as written.
3. Governance Committee Call Report- subcommittees being formed-
Resolutions, State of the Profession 3/31 1:00ET, Voice of the Profession 3/29 2:30ET,
next meeting 4/6 1:00ET.
4. Education Committee Call Report-
March 3rd meeting canceled, next meeting 4/7 12:00ET
5. Any other Committee Call Report-
Membership- ECP- looking at charities for 2022 annual. Educational series on leadership
and related topics to be recorded- Rick on “The Path to the Board”, Preparing for
Conference and other topics.
6. Follow up from Pete and Karl’s presentation at the mid-year conference.
Were there any submissions for the 2022 annual? Submission ideas for 2023 mid-year?
The session at mid-year went well. Discussions focused on if policy and ethics are or can
be mutually exclusive. Peter informed the group that a summary is coming.
7. A Question of Ethics- Unpacking DEI (Attachment A)
NOTE This portion of the meeting will be recorded and shared with the membership.
8. Next Meeting April 28th, 2022.



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Attachment A

A Question of Ethics- Unpacking DEI

Diversity, equity and inclusion (DEI) is a term used to describe policies and programs that promote the representation and participation of different groups of individuals, including people of different ages, races and ethnicities, abilities and disabilities, genders, religions, cultures and sexual orientations.

Using the Canons 1.1, 1.3, 1.4, and 4, as provided in Attachment B, please be prepared to discuss the following questions.

Q1. Do courts have an obligation to implement policies and programs that ensure DEI is applied to the court's process?

Canons 1.1 (Performing Court Duties) and 1.3 (Fairness):

Q2. Can you equitably apply DEI to assessing fines, costs, and fees? If so, how?

Q3. How can courts be more inclusive and assessable to those having business with the court?

Canon 1.4 (Respect for others)

Q4. DEI is regularly discussed regarding the implement policies and programs to the court's process, but we can't neglect the court's personnel. Affirmative Action has been in place since the mid to late 60's and addresses getting individuals into an organization that have suffered under discriminatory practices. How does implementing DEI policies and programs compare to Affirmation Action requirements?

Canon 4.1 (Refraining from Inappropriate Political Activity)

Q5. As the application of DEI policies and programs becomes increasingly attached to various political agendas, does the implementation of or focus on DEI needs, policies, and programs violate the court's purpose as a non-partisan, separate, and independent branch of government? If so, how does the court keep political agendas out of the court's efforts to make the personnel of the court and the court's process equitable for all?



Attachment B

Canon 1: Avoiding Impropriety and the Appearance of Impropriety in All Activities	
<p>1.1 <i>Performing Court Duties</i></p>	<p>A court professional faithfully carries out all appropriately assigned duties, striving at all times to perform the work diligently, efficiently, equitably, thoroughly, courteously, honestly, openly, and within the scope of the court professional’s authority.</p>
<p><i>Comments</i></p>	<p>This Canon promotes the professional values of diligence, trustworthiness, courtesy, respect, and accountability. It also upholds the institution of courts as independent, fair, and responsive to the public.</p> <p><i>Appropriately Assigned Duties</i> Court professionals dedicate themselves to their official duties, avoiding the temptation to undertake personal tasks unrelated to the functions of a court. Likewise, this Canon, along with Canon 1.6 (Avoiding Privilege), discourages superiors from pressuring subordinates to perform personal tasks.</p> <p><i>Honesty</i> There has been considerable discussion over the inclusion of the word “honesty.” Some see honesty as including the concept of being completely forthcoming and not holding facts back. Others see the necessity of “protecting the truth” to include protecting judicial officers, court officials, and courts as an institution. We court professionals must be as honest and forthcoming as possible without putting another person in jeopardy or impugning the reputation of the courts.</p> <p><i>Openness</i> The public should always be able to clearly understand how we as professionals arrive at the determinations we make, regardless of whether or not they agree with those determinations.</p>
<p>1.3 Fairness</p>	<p>The court professional makes the court accessible and conducts his or her work without bias or prejudice.</p>
<p><i>Comments</i></p>	<p>While many codes simply reiterate the established legal prohibitions against legally protected groups, this Canon calls us to focus our decisions (e.g., hiring or contracting decisions) solely on merit, avoiding extraneous influences. It calls for completely unbiased work including, but not limited to, eliminating bias and prejudice based upon race, gender, gender identity or expression, skin</p>

	color, religion, age, sexual orientation, national origin, language, marital status, socioeconomic status, or limited physical or cognitive abilities. This is more expansive than Canon 1.1 (Performing Court Duties), calling us to perform our work courteously, and Canon 1.2 (Avoiding Impropriety), urging us to avoid improper influences.
1.4 <i>Respect for Others</i>	A court professional treats litigants, co-workers, and all others interacting with the court with dignity, respect, and courtesy.
<i>Comments</i>	Both this Canon and Canon 1.3 (Fairness) uphold the courts as fundamentally fair. This Canon expands a topic introduced in Canon 1.1 (Performing Court Duties). It calls for us as court professionals to show dignity, respect, and courtesy to everyone interacting with the court, and even when the occasion does not specifically involve assigned duties.

Canon 4 Refraining from Inappropriate Political Activity	
4.1 <i>Refraining from Inappropriate Political Activity</i>	<p>A court professional retains his or her right to vote and exercises that right as a part of citizenship.</p> <p>A court professional engages in political activity strictly as a private citizen and only in accordance with Federal law, state law, local court rule, and policy of the appropriate local governing authority.</p> <p>A court professional participates in political activity only during non-court hours, using only non-court resources.</p> <p>A court professional does not use his or her position or title within the court system to influence others.</p> <p>A court professional does not coerce or encourage other court staff to perform activities that a candidate is prevented from performing.</p> <p>Unless one is elected to their court position, a court professional takes an unpaid leave of absence upon declaring one’s intent to run for office.</p> <p>If elected to an office, a court professional resigns his or her position with the court prior to assuming the elected office, unless holding that elected office clearly neither poses a conflict of interest nor interferes with one’s ability to perform their court duties.</p>
<i>Comments</i>	<i>The Right to Vote</i> Politics in the court realm is particularly sensitive. Although the judicial branch should be above partisanship, it is frequently subject to the influences of

community criticism, funding shortfalls, and political favoritism. It is important with all the prohibitions against political activities that court professionals regularly observe and celebrate our fundamental right to vote.

Political Activity Done as a Private Citizen

The right to vote aside, it is important to maintain the clear distinction between the role of participating citizen and the role of court professional. This distinction supports a fundamental value of the court professional as being fair and impartial.

Do Not Use Title to Influence Others

One should never use one's title (e.g., judge or county clerk) to encourage or coerce staff to vote or contribute money to a campaign for a candidate or a ballot measure. In addition, one should never award favors or sanctions to staff dependent upon whether a staff member did or did not vote or contribute to a campaign or perform campaign-related services (e.g., knocking on doors or organizing fundraising activities). This is a logical extension of Canon 1.6 (Avoiding Privilege), particularly focusing on politics. This also extends to using one's position to encourage, require, or coerce a colleague or subordinate to participate in campaign-related activities such as mailing flyers, attending campaign events, etc.

Campaign During Non-Work Hours

The Code assumes that even if one is standing for re-election, a court professional campaigns during off hours, or else he or she takes a leave of absence. Again, this clearly distinguishes between a court professional's public and private roles. A court professional refrains from any campaign-related activity, whether campaigning for themselves or others, during working hours.

Resigning One's Previous Position

Situations have arisen where court staff have been elected to offices in different branches and at different levels of government. Staff must be vigilant if a conflict of interest arises. If an elected position directly oversees aspects of court operations (e.g., county Board of Supervisors or state legislature) the court professional should resign one of the positions. A court professional who is also a newly elected official considers whether the elected position has influence, direct or indirect, over the Court in any of the following areas.

- Funding
- Resources
- Rule-Making
- Operations
- Staffing

As the court has a right and responsibility to respond to initiatives that affect the administration of justice, it is unclear what a court professional's role is regarding ballot initiatives.