

<b>DEPARTMENT:</b> Superior Court Adult Probation Clerk of Superior Court Juvenile Court	<b>DIVISION:</b> ALL
<b>RULE NAME:</b> Judicial Merit Rules <b>RULE:</b> Conditions of Employment <b>RULE NUMBER:</b> 3	<b>DATE ADOPTED:</b> March 1, 2002 <b>DATE AMENDED:</b> April 9, 2012 <b>DATE AMENDED:</b> February 25, 2016 <b>DATE AMENDED:</b> November 5, 2018

### **RULE 3 - CONDITIONS OF EMPLOYMENT**

#### **3.01 Rules**

- A. The Judicial Merit System in Yuma County and the provisions of these Rules apply to all classified and unclassified positions, provided however that rules governing discipline and grievance procedures do not apply to the following unclassified positions which are "at will" positions. Employees who occupy unclassified positions serve at the pleasure of the Presiding Judge or the Clerk of Superior Court, where applicable.

#### **Unclassified Positions**

1. Judges Pro Tempore
  2. Court Commissioners and Court Referees
  3. Court Administrator
  4. Chief Deputy Clerk of the Superior Court
  5. Chief Adult Probation Officer
  6. Director of Juvenile Court
  7. People appointed to unclassified Positions which may be created in the future
  8. Contract service providers and their employees
- B. Amendments to these Rules may be proposed by any Appointing Authority. Proposed Amendments shall be submitted in writing to the Court Administrator for consideration and recommendation by the Judicial Management Team.
- C. Amendments to these Rules shall be approved by the Presiding Judge.
- D. In the event that specific financial or employee benefits related circumstances or issues are not covered by the rules and guidelines of the Yuma County Judicial Merit System, the applicable and appropriate sections of the Yuma County Personnel Rules will govern.

### **3.02 Appointing Authority**

- A. Each judge of an established division of the court shall appoint the judicial assistant, bailiff and court reporter assigned to that judge's division. The Presiding Judge is the Appointing Authority of all staff assigned to judges pro tempore and commissioners.
- B. The Clerk of the Superior Court shall appoint all Clerk's staff. The Court Administrator shall appoint all staff supervised by the Court Administrator. The Chief Adult Probation Officer shall appoint deputy adult probation officers and support staff. The Director of Juvenile Court Services shall recommend to the Presiding Juvenile Judge Appointment of all staff of the Juvenile Court. The Presiding Juvenile Judge shall appoint the director of Juvenile Court Services. The Presiding Judge shall appoint the Chief Adult Probation Officer, the Court Administrator, and shall approve the Appointment of all court personnel not included above, or otherwise provided by law.

### **3.03 Applicability of the Rules**

The Rules do not apply to the following temporary or part-time positions:

- A. Technical experts, consultants, or professionals employed on a fee basis and who are not engaged in the performance of administrative duties for the Appointing Authority; and
- B. Any such temporary or on-call positions that the Presiding Judge determines are not subject to the Rules.

### **3.04 Basic Work Week and Hours of Work**

Except as otherwise provided in the Rules, each full-time employee is required to regularly work forty (40) hours a week, except for weeks with established holidays or when using approved sick or vacation time. A part-time employee shall work the hours required of that employee pursuant to an approved work schedule.

Each employee is expected to report time away from work according to Rule 15.04 D. Modifications of this provision may be made by the Presiding Judge and in the case of the Clerk's Office, the Clerk of the Court, subject to any federal or state statutory or constitutional limitation relating to hours of work. (Amended February 25, 2016)

### **3.05 Certification of Payrolls**

Each Appointing Authority shall provide certification that all employees in the court departments for whom claim for payment of salaries or compensation is made, are holding positions as provided by law and these rules.

### **3.06 Performance Evaluation Appraisal**

- A. The Court Administrator shall, with the concurrence of the Judicial Management Team, develop a performance appraisal system, and all employees in the classified service shall be evaluated in accordance with this system at established intervals not less than annually.
- B. Performance appraisals shall be considered in determining training needs, step increases, order of reductions in force (RIF), transfer, re-employment, and as a means for identifying employees who should be promoted, demoted, or dismissed.

### **3.07 Disability Accommodation**

- A. The Court is committed to complying fully with the Americans with Disabilities Act (ADA) and ensuring equal opportunity in employment for qualified persons with disabilities. The Court shall follow any state or local law that provides individuals with disabilities greater protection than the ADA. All employment practices and activities will be conducted on a nondiscriminatory basis.
- B. Hiring procedures shall provide people with disabilities meaningful employment opportunities. Job applications shall be made available in alternative, accessible formats upon request and court departments shall provide assistance in completing the application upon request. Pre-employment inquiries shall only be made regarding an applicant's ability to perform the duties of the position for which they apply.
- C. Post-offer medical examinations are required only for those positions for which there is a bona fide job-related physical requirement. Post-offer medical examinations shall be given to all people entering the position only after a conditional job offer is made. Medical records shall be kept separate and confidential.
- D. Reasonable accommodations shall be made available to all disabled employees where their disability affects the performance of job functions. All employment decisions shall be based on the merits of the situation in accordance with defined criteria.
- E. Qualified individuals with disabilities are entitled to equal pay and other forms of Compensation as well as in job assignments, classifications, organizational structures, position descriptions, lines of progression, and seniority lists.
- F. The court is also committed to refrain from discriminating against any qualified employees or applicants because they are related to or associated with a person with a disability.

- G. The court is committed to taking all other actions necessary to ensure equal employment opportunity for people with disabilities in accordance with the ADA and all other applicable federal, state, and local laws.

**3.08 Membership in Organizations**

- A. Classified employees may join and hold office in any employee organization, labor union, or professional association in which they are eligible for membership; provided however that such employee organization, labor union, or professional association is not organized for any illegal purpose or primarily engaged in activities contrary to law, and that membership in such organization does not create a conflict of interest.
- B. No employee will attempt to prohibit or intimidate any classified employee from belonging to or holding office in any lawful organization.
- C. Membership in such organization will not be considered in any personnel action, including promotion, demotion, suspension, or dismissal.

**3.09 Volunteer Activity**

- A. Employees are encouraged to engage in volunteer activities, especially activities to improve the legal system; however, employees will evaluate their volunteer activities in the same manner as outside employment to identify any potential conflict with the employee's position with the court.
- B. Employees will declare all volunteer activities and will discuss potential conflicts with their respective Appointing Authority.

**3.10 No Monetary Email Solicitations**

- A. Employees shall not use Court email for any type of monetary solicitations. This shall apply to any and all fund-raising activities. (Adopted January 1, 2011)

**3.11 Outside Employment and Activities (Amended April 28, 2015)**

- A. Employees will not engage in outside employment or other outside activity which is not compatible with the full and proper discharge of the duties and responsibilities of their court employment or which might impair the capacity to perform their court duties and responsibilities in an acceptable manner.
- B. All employees must obtain prior written approval of any outside employment from their respective Appointing Authority.

### **3.12 Retaliation**

An employee may not be subjected to an adverse employment action in response to:

- Filing or raising a complaint or concern of discrimination or harassment.
- Opposing any practice that is a form of employment discrimination.
- Taking part in an investigation.

However, filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation.

Any person who is found to have violated this section will be subject to discipline up to and including termination of employment. (Amended November 5, 2018)

### **3.13 Records and Reports**

#### **A. Personnel Action Forms:**

Personnel Action Forms, approved by the Appointing Authorities, or their Designees, will be used by all court departments to report personnel actions and status changes as required. Yuma County Human Resources will provide the most current personnel action form. Yuma County Human Resources and Court Human Resources will work together to inform the court departments which personnel actions and status changes must be reported.

#### **B. Department Personnel Records:**

Each court department will maintain personnel records that contain information in a format prescribed by the Judicial Management Team and approved by the court.

Personnel records shall be maintained pursuant to the:

#### **Arizona Code of Judicial Administration**

##### **Part 3: Superior Court**

##### **Chapter 4: Administration**

##### **Section 3-402: Superior Court Records Retention and Disposition**

All provisions of the ACJA shall be followed by court departments regarding retention and purge schedules of personnel documents. In addition, each court department will create and maintain a summary record of all former and current employees. This record shall include

name, dates of employment, job title of current and former employees, used to answer job reference questions. This record shall be maintained for 15 years after employees' separation.

(See page 3; Item 12)

## **Arizona State Library, Archives and Public Records**

### **General Records Retention Schedule for Counties**

#### **Personnel/Human Resources Records**

Schedule Number:

000-11-4

The retention schedule for employee timesheets is not specifically set forth in the ACJA. Consequently, as the Court's fiscal agent the authority for the same shall fall to Yuma County policy which requires timekeeping documents to be retained for 3 years.

(Amended April 9, 2012)

#### **3.14 Service of Notice**

Unless otherwise provided by law or these Rules, whenever any notice, paper or documents is to be given to or served upon any employee by the Presiding Judge, such notice, paper or document may be personally served or it may be served by certified mail to the last known residence or business address of the addressee. Service is complete upon mailing. Unless otherwise provided by law or these Rules, whenever any notice, paper or document is to be given to or served upon any court department or Appointing Authority by the Presiding Judge, such notice, paper or document may be delivered or mailed to the Appointing Authority. Any service under this provision is complete upon mailing.

#### **3.15 Severability**

If any provision of these Rules is held invalid, the remainder of the Rules, and their application to other persons or circumstances, will not be affected.

#### **3.16 Conflict with Federal and State Requirements**

Arizona Revised Statutes, federal law and any regulations or standards governing the grant of federal funds or state assistance to a court department will supersede these Rules.

### **3.17 Hiring Of Relatives**

No person will be employed in a position in any reporting line of supervision to a member of his or her immediate family. For the purposes of this rule, a reporting line of supervision includes an immediate supervisor and the supervisors in the second, third or fourth line of supervision, up to and including the Appointing Authority of the court department. In the event an Appointing Authority determines that an immediate family member is placed in a reporting line of supervision, an appropriate course of action will be determined in consultation with the Court Administrator. However, no employee will be denied a promotion on the basis of familial relationship to another employee. Immediate family members of court employees are ineligible for on-call, temporary or seasonal appointments to court departments in which a family member is in a reporting line of supervision.

### **3.18 Fingerprinting/Criminal Background Check**

- A. All applicants will be informed at the time of application that as a condition of employment, they will be required to undergo a criminal record check. This will include fingerprinting and a criminal history check through ACJIS and NCIC.
- B. If an applicant refuses to allow fingerprinting and a criminal history check, they will not be considered for employment.
- C. If it is determined that a record of criminal conviction which was not disclosed on the employment application or disclosed by the employee, the employee will be terminated by the Appointing Authority unless waived in writing by the Presiding Judge.
- D. Biennial criminal history checks will be conducted on all classified and unclassified employees, including volunteers. (Amended April 28, 2015)

### **3.19 Drug Free Workplace**

It is the policy of the court to assure the maintenance of a drug-free and alcohol-free workplace.

- A. Pre-employment and Promotion or Change in Classification Testing  
Applicants for position in any court department, and regular status employees may be required to submit to a urinalysis as a condition of employment in the following instances:
- B. Random Drug and Alcohol Testing

Employees in certain job classifications may be subject to random drug and alcohol testing during their work period. Random testing will only apply to those employees who:

1. Hold a commercial driver's license (CDL) as a result of their court employment;
2. Have a safety-sensitive position, as identified by the Appointing Authority, including, but not limited to
  - a. Detention Officers
  - b. Probation Officers
  - c. Surveillance Officers
  - d. Community Service Officers
  - e. Court Security Officers

C. Reasonable Suspicion Testing

Any employee will be required to submit to a drug screen, blood alcohol test or breath alcohol test (intoxilyzer test) if the Appointing Authority or an employees' supervisor has a reasonable suspicion that the employee is using, selling, impaired by or in possession of alcohol, illegal or controlled substances (non-prescription) in the workplace. "Reasonable Suspicion" is a belief based on specific objective facts and reasonable inferences drawn from those facts.

Reasonable suspicion that an employee uses alcohol or illegal drugs may be based upon, but not limited to:

1. Direct observation of drug or alcohol use and/or the physical symptoms of being under the influence of drugs or alcohol.
2. A pattern of abnormal conduct or erratic behavior.
3. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking.
4. Information provided by either a reliable and credible source(s) or by admission of the employee.
5. Newly discovered evidence that the employee has tampered with a previous drug test. Where testing is conducted based on reasonable suspicion, the supervisor will document by describing the circumstances which form the basis that reasonable suspicion exists. The supervisor will forward the documentation to the appointing authority to authorize such testing. Such documentation will be retained in a file, separate from the employee's personnel file, and may be destroyed if appropriate.

### **3.20 Grievance Procedure**

The Court Administrator, with approval of the Presiding Judges, will establish a grievance procedure through which classified employees may obtain consideration of grievances or problems over which the Appointing Authority has complete or partial jurisdiction and for which redress is not provided elsewhere in these Rules. The purpose of the grievance procedure is to provide employees a written and systematic means of obtaining further consideration of grievances after every reasonable effort has been made to resolve them through internal discussions initiated with their immediate supervisor. The grievance policy and procedures are set forth in Appendix A hereto and incorporated by reference.

### **3.21 Arizona Code of Judicial Conduct for Judicial Employees**

**Purpose:** People appointed to positions within the court department hold a position of public trust. Therefore, court employees are held to a high standard of integrity and conduct, both professionally and personally. As representatives of the court, employees must behave in such a manner to maintain public confidence and to remain above reproach in both appearances as well as fact. Court employees will uphold the constitution, laws, and legal regulations of the United States, the State of Arizona, and all governments therein. Court employees will abide by standards of the Arizona Code of Judicial Conduct for Judicial Employees of the State of Arizona, as ordered by the Arizona Supreme Court as may be amended from time to time (presently contained in Administrative Order 2010-13 issued December 16, 2009).

The Arizona Code of Conduct for Judicial Employees, effective February 1, 2010 is contained in Appendix C hereto and incorporated herein. (Amended April 28, 2015)