



Ohio Board of Professional Conduct

OHIO ETHICS GUIDE

# Artificial Intelligence *for Lawyers and Judicial Officers*





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NOTE: Ethics Guides address subjects on which the staff of the Ohio Board of Professional Conduct receives frequent inquiries from the Ohio bench and bar. Ethics Guides provide nonbinding advice from Board staff and do not reflect the views or opinions of the Board of Professional Conduct, Commissioners of the Board, or the Supreme Court of Ohio.

## Introduction

This Ethics Guide provides nonbinding Board staff guidance regarding the ethical use of AI tools by Ohio lawyers and judicial officers under the Ohio Rules of Professional Conduct and the Code of Judicial Conduct.

The Ethics Guide does not endorse any particular AI product or service and does not address compliance with non-ethics law (such as copyright, privacy, or data protection.) Judges and lawyers may also consult the Supreme Court of Ohio’s Artificial Intelligence Resource Library for additional education materials and nonbinding external resources.

## Key Terms

For purposes of this Ethics Guide:

- **Artificial Intelligence:** Artificial intelligence or “AI” refers to “a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments.” Nat’l Artificial Intelligence Initiative Act of 2020, Div. E, sec. 5002(3) (2021).
- **Generative AI or Gen AI:** Generative AI refers to a type of AI that can generate new content, including text, images, audio, video, and software code in response to a user’s prompts and questions. Gen AI tools that produce new text are prediction tools that generate a statistically probable output when prompted by the user. Gen AI tools are self-learning and therefore keep and use the information with which they are prompted to train the AI for future users. ABA Formal Op. 512.
- **Hallucination:** Gen AI systems are known to occasionally “hallucinate” results, meaning that they can generate inaccurate, fictitious, or nonsensical results that are plausible or seemingly credible.

- **Prompt:** “Prompt” refers to the natural-language or other content (including text, documents, and other data) that a user provides to a Gen AI tool to specify the task and guide the tool’s generated response.

## Lawyers

Generative artificial intelligence tools (hereinafter “AI Tools”) are increasingly becoming integrated into the practice of law. Properly used, AI-enabled platforms can streamline legal workflows such as legal research, contract drafting and review, discovery, and large-scale document analysis. When AI tools are used in an ethical manner by lawyers, it can improve the efficiency and consistency of repeatable tasks, allowing lawyers to devote more time to the exercise of independent professional judgment, decision-making, client advice and counseling.

The Ohio Rules of Professional Conduct do not prohibit lawyers from using artificial intelligence tools to assist them in providing legal services to clients. However, lawyers who integrate AI tools into their practices must exercise caution while remaining cognizant that the tools do not possess the same experience, degree of understanding, and judgment as a human lawyer when interpreting and applying the nuances associated with the interpretation and application of the law to a legal problem. Like any technology, AI tools must be used in a manner consistent with a lawyer’s ethical obligations under the Rules of Professional Conduct.

## Competency

Like other technology adopted by lawyers in the last several decades (email, the Internet, online legal research databases, cloud-based data storage, and smartphones) and incorporated in the majority of legal practices, AI is rapidly becoming a standard tool for practicing lawyers.



Prof.Cond.R. 1.1 prohibits a lawyer from “handl[ing] a legal matter that the lawyer knows or should know he or she is not competent to handle[,]” and further provides “[c]ompetent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.” A lawyer’s competence extends to the technology and other tools used by a lawyer when providing legal services to clients. While lawyers are not required to use AI in their legal practices, a lawyer’s duty of competence requires that they keep abreast of changes to the practice of law, including the benefits and risks associated with relevant technology. Prof.Cond.R. 1.1, cmt. [8]. AI can now be correctly defined as a “relevant technology” to the practice of law. The rapid evolution of AI tools available to legal practices necessitates that a lawyer attend continuing education seminars, consult other lawyers and experts proficient in AI, and engage in a degree of self-study in order to comply with Prof. Cond.R. 1.1.

More importantly, lawyers choosing to use AI must develop the necessary skills and knowledge to competently use the technology as well as recognize

that not all AI tools are specifically designed or intended for use by lawyers. A lawyer using AI in his or her practice must ensure that the work product generated by AI is accurate, coherent, and reliable and does not compromise the quality of the legal representation of the client or the lawyer’s advocacy before a tribunal. A lawyer’s misunderstanding of the capabilities and limitations of an AI product or an overreliance on generated results can lead to negative outcomes for both the lawyer and client. At a minimum, a lawyer should be able to understand how the AI tool they choose to use in their practice functions, the potential for the AI tool to produce hallucinations, and what datasets it uses or trains upon to generate responses to a user’s prompts.

Competent use of any AI tool also requires human review to check the facts, legal citations, and propositions of law included in court filings and summaries of case-related information. In short, a lawyer should never rely solely on the output of an AI tool without independently verifying it against the original source materials.

## Client Confidentiality

When using AI tools, lawyers must maintain the confidentiality of information related to the representation of a client. Prof.Cond.R. 1.6. Comment [19] to Prof.Cond.R. 1.6 notes that, “[w]hen transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients.” The comment further states that a lawyer “must act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer \* \* \*.” Prof.Cond.R. 1.6, cmt. [18]. In the context of AI use, the rule requires lawyers to avoid directly or inadvertently disclosing sensitive client information through AI platforms. AI tools use information from user prompts to train their model and may use the same information in response to other users’ prompts. Consequently, a lawyer must carefully assess each AI tool utilized to ensure that the confidentiality of client information is maintained. Lawyers should always ascertain if the AI tool they plan to use shares information with third parties, uses stored data to train upon, and has adequate security measures to keep inputted information and data safe from inadvertent access.

Some AI platforms, particularly free or public versions, do not treat user prompts or AI-generated results as confidential. A close review of the terms of service of some AI products may reveal that the information provided by the user becomes the property of the AI vendor and will be used to train the AI product. Numerous AI vendors explicitly state in their terms of service that information submitted via public interfaces may be utilized and disclosed at their discretion. D.C. Eth. Op. 388.

Because lawyers have an ethical duty to make reasonable efforts to prevent the unauthorized or improper disclosure of client information, only AI tools offered with adequate security measures and other confidentiality safeguards should be used

when client-related information is disclosed (or information possibly leading to the identity of a client.) Regardless of the AI tool utilized, lawyers should always anonymize client information and refrain from inputting details that could lead to the discovery of the client’s identity. In some matters, lawyers should consider obtaining a client’s informed consent before inputting any client-related information into an AI tool. N.M. Adv. Op. 2024-04. For example, even if the lawyer is not referring to a particular client in a prompt, information shared via the prompt, even as a hypothetical, may inadvertently reveal information that could lead to the disclosure of the client if the information is revealed in response to another user’s prompt. *See, e.g.* ABA Formal Op. 480 (cautioning lawyers’ use of hypotheticals through columns or blogs.)

Attorneys who intentionally or inadvertently enter client-related information or even their own work-product into AI platforms, especially free or complimentary services, risk breaching ethical obligations related to client confidentiality.

### *Best Practices for Maintaining Client Confidentiality*

- Do not disclose client-related information to an AI tool without carefully reviewing the vendor terms of service, privacy policy, and security practices.
- Use only commercially available AI tools that explicitly indicate that they do not store, train upon, or share information provided via user prompts or generated results, *e.g.*, Westlaw / Lexis AI / AI enterprise products.
- A lawyer should “consult with IT professionals or cybersecurity experts to the extent necessary for the lawyer or law firm to ensure that any AI tool in which a lawyer would input confidential client information adheres to stringent security, confidentiality, and data retention protocols.”<sup>1</sup>



## Client Communication

Lawyers must reasonably consult with clients about the means by which their objectives will be accomplished. Prof.Cond.R. 1.4(a)(2); ABA Formal Op. 512. This obligation arises in situations in which an attorney is required to inform clients about the use of artificial intelligence to assist in delivering legal services. *See* N.M. Adv. Op. 2024-004.

Nevertheless, the use of AI-generated legal research in the course of handling a client's matter does not, in and of itself, necessitate disclosure to the client. Of course, a lawyer should always respond to a client's questions about whether the lawyer is using AI tools in providing legal services to the client. Prof.Cond.R. 1.4(a)(4) (A lawyer shall \* \* \* promptly comply with reasonable requests for information.) Overall, disclosure to the client about the lawyer's planned AI use is more likely to be required if the use will materially affect how the lawyer's representation of the client will be conducted, the degree that AI will be used to produce the final work product, if client-related information will be shared through an AI tool, and if the client will be separately billed for AI-related expenses.

For example, a firm representing a buyer in a \$300M acquisition plans to use generative AI to

draft the initial stock purchase agreement and disclosure schedules, suggest negotiation strategies, and review third-party contracts for risks. Disclosure of the lawyer's AI use may be advisable since it shifts the traditional drafting process from lawyer-produced to AI-generated documents, with the lawyers focusing on reviewing and editing. In the example, the scope of the communication with the client should include, at a minimum, what tasks the AI will assist with (*e.g.*, clause generation, summarization, drafting support) and what tasks will remain exclusively the purview of the lawyers. The firm should reassure the client that it remains ethically responsible for all work product and will exercise independent professional judgment when completing the legal services provided, even with the assistance of AI.

Lastly, it is important to consider discussing with the client the possible risks and benefits of the use of unique AI legal tools, especially more sophisticated tools that provide contract analysis and drafting. At times, clients might ask their lawyer not to use AI tools during their case, and the lawyer should respect this request.

## Preserving the Lawyer’s Independent Professional Judgment

A lawyer is required to use his or her independent professional judgment when providing legal services to clients. Prof.Cond.R. 2.1. This is especially true when a lawyer uses AI tools to provide legal services to clients. AI can serve as a starting point for legal tasks such as providing an initial analysis of a legal issue or for the creation of initial drafts of legal documents. Notwithstanding the advantages of AI technology, lawyers are always responsible for using their own professional judgment and cannot rely only on AI tools to carry out duties that require their experience and expertise. ABA Formal Op. 512. More importantly, a lawyer’s professional judgment should never be delegated to AI and always remains the responsibility of the lawyer.

A lawyer’s overreliance on AI tools may interfere with the lawyer’s ability to properly counsel and advise clients through the application of his or her independent professional judgment. For example, if an inexperienced lawyer relies exclusively on an AI tool to guide his or her decision-making and critical analysis of a client’s matter, the lawyer is impermissibly allowing AI to replace or supplant his or her independent professional judgment.

AI expert Judge Scott Schlegel, Louisiana Fifth Circuit Court of Appeal, argues when using AI tools in furtherance of providing legal services, it is simply not enough to have a “human in the loop” to “review” the AI generated work product.<sup>2</sup> This is an oversimplification that ignores the quality and experience level of the human oversight necessary when reviewing AI work product.<sup>3</sup> The level of expertise of the “human in the loop” significantly affects how AI can or should be used in a legal practice.<sup>4</sup>

The experience level of the lawyer, his or her knowledge of the area of law, and the understanding of the limitations of AI tools, will largely determine the extent to which the lawyer may rely on AI generated output. In all situations, AI tools should be viewed as a supplemental tool in a legal practice that always requires human review.

## Fees

The use of AI by lawyers may significantly reduce the amount of time a lawyer typically spends on a variety of legal services traditionally provided to clients. The reduction in the amount of time a lawyer spends on a matter by using AI is a cost-savings that should ultimately benefit clients. “When that basis for billing the client has been agreed to, the economies associated with the result must inure to the benefit of the client.” ABA Formal Op. 379. While AI tools can assist lawyers in working more efficiently, this increase in productivity should never lead to a dishonest exaggeration of the hours a lawyer claims to have worked. Fla. Bar Op. 2024-5.

A lawyer may not charge or collect an excessive fee and all fees must be reasonable based on the consideration of the nonexclusive eight factors set forth in Prof.Cond.R. 1.5(a) (time and labor required, preclusion of other employment, customary fee, amount involved and results obtained, time limitations, nature and length of client relationship, experience, reputation, and ability of the lawyer, and a fixed or contingent fee.) It is axiomatic that lawyers may bill only for the time actually spent on a client matter and not the time the task *would* have taken without AI. For example, if a lawyer traditionally spends 15-20 hours drafting an uncomplicated will and trust for a client, but the use of AI tools has reduced the actual time spent to 8 hours, then the lawyer may only charge the client 8 hours of billable time.

Some legal commentators have suggested that as lawyers increasingly adopt AI technology into their practices, the legal industry may transition away from hourly billing and toward flat or alternative fee models for legal services.<sup>5</sup> However, flat or alternative fees must still be “reasonable”. If an AI tool significantly lowers the time and effort needed to complete a legal task, it may be unreasonable for a lawyer to continue to charge the same flat fee as before.

In most situations, the cost to the lawyer to use a standard AI tool will be considered overhead that may not be separately billed to a client.

However, there may be situations where lawyers may charge clients for the reasonable cost of sophisticated AI tools that require the lawyer to pay a fee per each use, like predictive case or jury analysis tools. In these instances, the expense should be clearly explained in the engagement letter consistent with Prof.Cond.R. 1.5. *See also* ABA Formal Op. 93-379 (lawyers may pass on reasonable charges for “photocopying, computer research, \* \* \* and similar items” rather than absorbing the expenses as overhead.)

### **Candor to Tribunal / Avoiding Hallucinations in Court Filings**

AI products operate differently from traditional internet search engines, which offer precise results based on constantly updated databases. The data available to an AI product is confined to its training datasets. Instead of retrieving information, AI generates new content by statistically predicting the next word in a sequence. As a result, every AI product may produce hallucinations that appear correct but are inaccurate.

Since the widespread release of commercially available AI tools, several lawyers in other jurisdictions have either been sanctioned by federal or state courts or disciplined by state disciplinary boards for providing fictitious citations and propositions of law in briefs and other court filings.<sup>6</sup> As of the date of publication, AI is currently not a reliable substitute for traditional legal research that uses commercial legal search engines or printed case reporters and can imperil lawyers who solely rely on it. In short, conducting legal research using general and publicly accessible AI tools is not a best use case given the current state of the technology.

The underlying ethical misconduct of some lawyers who have been sanctioned in other jurisdictions implicate the corresponding Ohio rules Prof. Cond.R. 3.1 and 3.3. Taken together, these rules require a lawyer using AI to draft court filings or conduct legal research to assume full responsibility for ensuring that the court filings are accurate, non-

misleading, and grounded in law and fact. Under Prof.Cond.R. 3.3(a), a lawyer shall not knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer. The filing of documents with fictitious case citations, quotes, or propositions of law implicates Prof.Cond.R. 3.3(a), 8.4(c), 8.4(d) and will likely constitute a false representation of law knowingly made by the lawyer to a court. Prof.Cond.R. 3.3, cmt.[4]. Additionally, an AI hallucinated case citation, argument, or proposition of law used in support of a defense or assertion of an issue inherently has no basis in law or fact, and would correctly be deemed frivolous, thereby implicating Prof.Cond.R. 3.1.

When a lawyer decides to employ AI in his or her legal practice, it is imperative that any work product generated by the AI tool be verified for accuracy by the lawyer. A lawyer’s duties of competence and diligence require verification of AI generated results by the cross-checking of case citations, quotes, propositions of law, and holdings offered by the AI tool. Prof.Cond.R. 1.1, 1.3. If a lawyer subsequently becomes aware that a court filing contains a hallucination of law or fact, it is imperative that he or she immediately notify the court and opposing counsel of the error. Failure to do so not only exposes the lawyer to potential sanctions by the court but may also result in a referral to disciplinary authorities. *See State v. Coleman*, 2026-Ohio-965 (lawyer sanctioned \$2,000 and referred to Office of Disciplinary Counsel for submission of court filings with hallucinated facts and quotations not found in the record.)

Verification of AI generated results is also strongly recommended when using AI to summarize case pleadings, briefs, and deposition and trial transcripts. The same degree of verification of original source material for legal research should be conducted when using AI as a summary tool.

Finally, a lawyer must always comply with a court’s local rules or standing orders relating to both the use and disclosure of AI tools. Prof.Cond.R. 3.4.



Several Ohio courts have adopted both measures to regulate AI use by lawyers and parties. One Ohio common pleas judge requires lawyers to certify “that no portion of any filing in this case will be drafted by generative artificial intelligence or that any language drafted by generative artificial intelligence—including quotations, citations, paraphrased assertions, and legal analysis—will be checked for accuracy, using print reporters or traditional legal databases, by a human being before it is submitted to the Court.”<sup>7</sup> A lawyer must always check, and keep abreast of any rules, orders or other court procedures implemented in the jurisdiction in which the lawyer is practicing.

### **Supervision of Lawyers, Staff, and AI-Related Vendors**

Supervising lawyers with managerial responsibility in a law firm must make reasonable efforts to ensure that the firm lawyers and nonlawyer assistants comply with the Rules of Professional Conduct. This necessitates the implementation of appropriate internal policies and procedures and regular instruction and supervision of staff. Prof.Cond.R. 5.1, 5.3. Failing to take these steps may result in the

supervising lawyer being held ethically responsible for the misuse of AI by other lawyers or staff that violates the Rules of Professional Conduct. *See* N.M. Adv. Op. 2024-004.

A lawyer’s ethical duties regarding supervision apply equally to nonlawyers “both within and outside of the law firm.” ABA Formal Op. 498 (2021); Fla. Bar Op. 07-2. The fact that an AI tool is managed and operated by a third-party does not obviate the need to ensure that its actions are consistent with the lawyer’s own professional and ethical obligations. Fla. Bar Op. 25-04. Thus, when contemplating the appropriate use of generative AI, lawyers should consider whether a vendor provided AI tool can satisfy the lawyer’s ethical obligations under the Rules of Professional Conduct to the same extent as a human hired to complete the same tasks. Lawyers must also ensure that any nonlawyer vendor is adequately supervised and bound by the confidentiality obligations consistent with Prof. Cond.R. 5.3 and 1.6. *See* Ohio Adv. Op. 2017-05. If a lawyer uses content produced with the assistance of a generative AI tool, just as any other time a lawyer is being assisted by a nonlawyer, there is a professional responsibility to verify the accuracy and content of the work product in accordance with Prof.Cond.R.

5.3.

## Judges

Artificial intelligence is increasingly being used by judges for legal research and drafting, document management, scheduling, translation, case file summarization, data analytics, and other court operations. While the Code of Judicial Conduct does not expressly address artificial intelligence, a judge must ensure that any use of AI in carrying out judicial duties complies with the Code's ethical requirements.

### Judicial AI Competence

Judges are obligated to perform their judicial duties competently and diligently. Jud.Cond.R. 2.5(A). Like the ethical duty of competence required of lawyers, competence for judges means the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the performance of judicial responsibilities. Jud.Cond.R. 2.5, cmt.[1]. In the context of artificial intelligence, a judge's technological competence includes a sufficient understanding of the technology being used, its capabilities, limitations, and the risks associated with relying upon it in the performance of both judicial and administrative duties.

As the use of AI tools by both lawyers and judges becomes more common, a judge should maintain a degree of competence with emerging AI technology to better ensure that its use in a court setting is consistent with applicable law, the Rules of Evidence, the Code, and court rules and policies. Mich. Ethics Op. JL-155. AI tools should not be used in chambers or court operations unless the judge has determined that a tool can be used without violating the Code or court rules. A judge's technological competence can be maintained by keeping abreast of changes in the relevant technology of AI, attending presentations about AI use in courts, and conferring with peers who have integrated AI into their judicial rules.

A judge's understanding about the potential applications of artificial intelligence by legal professionals and litigants coming before the court is also essential. Judges who possess a degree of competence in AI are better able to scrutinize court filings and offered evidence for improper AI use that can raise both legal and ethical issues.

### Independent Judicial Decision-Making

Judicial decision-making relies on the exercise of the core judicial functions of judgment and discretion that cannot be replicated by an AI tool. "Furthermore, "[a] judge [is obligated to] hear and decide matters assigned to the judge \* \* \* \*." Jud.Cond.R. 2.7.(Emphasis added.) While Jud. Cond.R. 2.7 supports the requirement that a judge has a "duty to sit" and to avoid frivolous reasons to recuse from a case, the rule can also be construed to reinforce judge's duty to decide a case using his or her own independent professional judgment, better characterized as independent judicial decision-making. This ethical obligation supports the conclusion that a judge should never use AI to decide the ultimate conclusion or decision in a case. WVA Adv. Op. 2023-22.

Another underlying purpose of Jud.Cond.R. 2.7 is that litigants are entitled to an opportunity to be heard by the trier of fact. If a judge delegates his or her own independent judicial decision-making to an AI tool, then the judge has abdicated his or her "duty to sit" and as a consequence, a litigant is denied an opportunity to be heard by the judge. Instead, the litigant's case is decided by AI.

Judicial reliance on an AI tool to reach the ultimate decision in a case raises obvious transparency and ethical concerns. "The human element of justice—the belief that an experienced judge is carefully considering all aspects of a case—is deeply ingrained in public consciousness."<sup>8</sup> A judge's duty to uphold the public's confidence in the independence, integrity, and impartiality of the judiciary is eroded when a judge delegates or abdicates the core judicial function of decision-making to an AI tool. Jud.Cond.R. 1.2.

## Legal Research and Writing

The same commercial or free AI tools available to the public and lawyers are also available to judges. The same caveats for lawyers apply when a judge or his or staff use public, and perhaps free, AI tools that do not maintain the degree of confidentiality required for judicial functions and are prone to produce hallucinations. For judges and staff, it is recommended that the use of AI in legal research only be performed using print case reporters or reliable legal research databases like Lexis and Westlaw that have incorporated AI features, but use defined datasets containing officially published and legal decisions, current statutory law, and reliable secondary sources.

Verification of AI results when conducting legal research is also recommended when using commercial AI tools. As previously noted, legal research is currently not a best use case for the use of AI and even results generated by commercial legal databases must be reviewed, verified, and scrutinized by the judge and his or her staff.

AI tools are frequently used by lawyers to produce first drafts of a variety of legal documents. But in a judicial context, a judge should avoid using AI to produce the first draft of a decision or order, especially in light of the judge's need to exercise independent judicial decision-making.

Several jurisdictions outside of Ohio have begun using AI tool that can review legal motions and use a judge's writing style to reach conclusions and draft tentative rulings.<sup>9</sup> Judges using the tool are required to review and edit drafts before adopting the AI generated rulings. At least one commentator described the use of the software as "problematic", finding that an "AI-generated tentative ruling could predispose a judge before they conduct [their own] legal analysis."<sup>10</sup> For the multitude of reasons discussed in this Ethics Guide, judges are advised to avoid using AI to produce the first draft of a decision, especially in light of the need for judges to exercise independent judicial decision-making.

AI is not the equivalent of human intelligence, "especially the intelligence [and wisdom] we expect from judges."<sup>11</sup> As Judge Schlegel has pointed out, there is a significant risk that a less experienced judge becomes merely a reviewer of AI-generated drafts rather than an author of legal reasoning.<sup>12</sup> AI is better reserved as a supplemental tool for experienced judges or staff who can test, refine, or reject the system's output based on their own expertise, education, and professional judgment.<sup>13</sup> Overreliance on AI by inexperienced judges can undermine the independent judicial reasoning that legitimizes judicial decision-making.<sup>14</sup>

There are additional concerns for judges utilizing AI for legal research and initial drafts of decisions. Like lawyers, judges have fallen victim to AI-generated hallucinations when the final work product has not been adequately reviewed prior to filing or publication. In 2025, two federal district judges withdrew opinions after attorneys identified serious errors, including misstated case outcomes, incorrect parties, unasserted allegations, and fabricated or misattributed quotations. One of the judges later disclosed that an intern had used ChatGPT in the drafting process.<sup>15</sup> The other judge had a strict policy in place against the unauthorized use of AI by staff in the drafting of legal opinions.

Another concern is that AI tools may "produce answers that feel authoritative, even when they are wrong." And while these systems may not be specifically trained to do it, they will often work very hard to support the position implied by your question. If [a judge's] prompt signals a conclusion, the [AI] tool tends to build an argument around it rather than challenge it."<sup>16</sup> While similar results may be beneficial for lawyers who rely on an AI tool to enhance or support a legal argument, the same type of results are detrimental to independent judicial decision-making.

AI use by judges and staff for legal research and writing requires verification of all work-product. A judge should treat AI like a first-year law clerk and double-check all citations, propositions of law, and quotes in the record if any AI tool has been used. It is recommended that judges permitting AI use in their chambers determine which AI tools may permissibly be used for legal research and writing.

### **Impartially and Fairness**

Judges using AI for research should always be mindful of the requirements in Jud.Cond.R. 2.2 (a judge shall perform all duties of judicial office fairly and impartially) and Jud.Cond.R. 2.3 (a judge shall perform the duties of judicial office without bias or prejudice).

One of the major concerns with the use of AI tools by judges is that AI relies on data created by humans that can promote stereotypes, reinforce prejudices, or exhibit unfair biases about a party. In response to a user's prompt, the AI tool can enhance or copy these biases into the response or output. For example, if the issue in a case involves a defective consumer product, but commentators, columnists, blogs, and prior court decisions favor the defendant corporation over consumers, the results generated by AI through a prompt entered by the judge may be skewed in favor of the corporation.

### **Ex Parte Information**

"A judge shall not investigate facts in a matter independently, and shall only consider the evidence presented and any facts that may be properly noticed." Jud.Cond.R. 2.9(C). Judge's using general AI tools like Chat-GPT to research legal issues may be exposed to information that would be considered an ex parte communication. Datasets in AI contain human created data that contain facts that are outside of the record and may include information about parties, facts from news sources, statistical data, and other information that has not been offered into evidence or subject to review by the parties.

Board staff have routinely advised judges that they should not rely on the Internet to conduct investigations of parties, witnesses, or facts in dispute due to the danger that the research may expose the judge to information not contained in the record that results in the judge having "knowledge of disputed facts" requiring their disqualification. Jud. Cond.R. 2.11(A). *See also* Jud.Cond.R. 2.9, cmt.[6] (the prohibition against investigating facts in a matter extends to information available in all mediums, including electronic.) The same guidance applies equally to a judge's use of AI tools.

### **External Influences**

Similar to the issues with the receipt of improper ex parte communications, a judge must also not "permit \* \* \* other interests or relationships to influence [his/her] judicial conduct or judgement." Jud.Cond.R. 2.4(B). An independent judiciary requires that a judge decide cases according to the law and facts, and not other interests. Public confidence in the judiciary is eroded when a judge's independent judicial decision-making is perceived to be subject to external influences. Jud.Cond.R. 2.4, cmt.[1].

While Jud.Cond.R. 2.4 is typically applied in the context of influence generated by public clamor or fear of criticism, family, social, political, financial, or other interests, the current state of AI technology may legitimately be considered a type of external influence if used during judicial decision-making. AI results are heavily influenced by human generated data, the prompts entered by other users, and the results generated by AI in response to prompts and may constitute other "interests." In short, Jud.Cond.R. 2.4 requires a judge to guard against exposure to AI results that may improperly influence his or her judicial decision-making.



## Confidentiality

Judges and their staff must be mindful of Code restrictions regarding the confidentiality of case information when using AI tools. Jud.Cond.R. 3.5 (a judge shall not knowingly disclose or use nonpublic information.) Judges must carefully safeguard information that is designated as confidential or private pursuant to the law, statute, court rules, or the Rules of Superintendence of the Courts of Ohio. Failure to maintain confidentiality of certain information may erode the public's confidence in the judiciary. Jud.Cond.R. 1.2.

Best practices include not inputting any case related confidential or sensitive information via a prompt into general or free public AI tools that do not ensure absolute confidentiality or security of prompts and train their model on data provided via prompts. In addition, any information that may be inputted that reveals or suggests the judge's judicial mental process in a case may prejudice the outcome of a pending or impending matter. Jud.Cond.R. 2.10. For example, an early draft of a decision or order may be used by the AI tool to produce results for parties in the case using similar prompts to prepare a motion or brief on the same issue, thus potentially affecting the outcome of the case.

## Others Uses of AI in the Courtroom

Other permissible and ethical uses of AI not discussed in detail in this Ethics Guide include, but are not limited to:

- Conducting research and provide summaries of depositions, exhibits, briefs, motions, and pleadings.
- Editing, proofreading, and reviewing draft opinions for spelling and grammatical accuracy.
- Assisting the court in determining if party filings have misstated the law or failed to include relevant legal authorities.
- Examining court operations data and routine administrative processes to identify potential efficiency improvements.
- Organizing and managing case documents effectively.<sup>17</sup>

## Endnotes

- 1 California State Bar, Practical Guidance for the Use of Generative Artificial Intelligence in the Practice of Law (2023).
- 2 Schlegel, *Beyond "Human in the Loop": Experience Matters in Legal AI Usage*, [sch]Legal Tech (December 4, 2024).
- 3 *Id.*
- 4 *Id.*
- 5 Palmer, *Be Reasonable, People! AI's Impact on Legal Fees*, Illinois State Bar Ass'n Standing Comm. On Artificial Intelligence & the Practice of Law, (January 2025).
- 6 *Mata vs. Avianca, Inc.*, 2023 U.S. Dist. LEXIS 108263, 2023 WL 4114965 (S.D.N.Y. June 22, 2023); *People v. Crabill*, 2023 Colo. Discipl. LEXIS 64 (Colo. O.P.D.J, Nov. 22, 2023).
- 7 <https://cp.cuyahogacounty.gov/media/3728/jjr-certificate-re-generative-artificial-intelligence.pdf>
- 8 Schlegel, "AI in Judicial Chambers: Are we Ready for Tech-Assisted Judges?," [sch]Legal Tech (October 14, 2024).
- 9 *Los Angeles Courts Pilot AI Tool to Help Judges Draft Rulings*; <https://www.governing.com/artificial-intelligence/los-angeles-courts-pilot-ai-tool-to-help-judges-draft-rulings>
- 10 *Id.*
- 11 Greenstein, *AI and a Judge's Ethical Obligations*, The Judge's Journal (February 3, 2020).
- 12 Schlegel, *supra* at 5.
- 13 *Id.*
- 14 *See generally* Schlegel, "The Social Contract and AI-Driven Judicial Opinions," [sch]Legal Tech (April 15, 2025).
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