

# Order

Michigan Supreme Court  
Lansing, Michigan

March 23, 2016

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2014-03

Stephen J. Markman  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein  
Joan L. Larsen,  
Justices

Proposed Administrative Order No. 2016-XX

Proposed Rescission of Administrative  
Order No. 1996-11 and Proposed Adoption  
of Administrative Order No. 2016-XX

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On order of the Court, this is to advise that the Court is considering the rescission of Administrative Order No. 1996-11 and the adoption of Administrative Order No. 2016-XX. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

Administrative Order No. 2016-XX

## Antinepotism Order

1. **Policy.** All courts in Michigan are committed to make all business decisions – including decisions regarding employment, contracting with vendors, and selecting interns – on the basis of qualifications and merit, and to avoid circumstances in which the appearance or possibility of favoritism or conflicts of interest exist. Based on this policy, the following situations are prohibited:
  - a) A superior-subordinate relationship existing at or developing after the time of employment between any related employees; and
  - b) A related chief judge and a court administrator in the same court, regardless of whether the chief judge was elected, appointed, or named chief, and regardless of whether there is a superior-subordinate relationship.

**Alternative Additional Provision [would include the language in “c)”—along with paragraphs “a)” and “b)” above]**

- c) A relative of a judge or justice employed within the same court.

**[Note:** The Court is considering whether an antinepotism policy should prohibit the employment of relatives in a subordinate/superior relationship and prohibit a chief judge and court administrator from being related as reflected in paragraphs “a)” and “b)”]; in addition, the Court is considering whether such a policy should also prohibit any relative of a judge or justice from being employed in the same court, as reflected in proposed paragraph “c)].]

All other relatives of court personnel who meet established requirements for job vacancies, court contract, or internship opportunities based on their qualifications and performance are eligible for judiciary employment, contracts, or internships in the same court. But advocacy of one relative on behalf of the other is prohibited in all circumstances.

2. Definitions. For purposes of this order, the following definitions apply:
  - a) “Relative” includes spouse, child, parent, brother, sister, grandparent, grandchild, first cousin, uncle, aunt, niece, nephew, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, and father-in-law, whether natural, adopted, step or foster. The term also includes same-sex or different-sex individuals who have a relationship of a romantic, intimate, committed, or dating nature, which relationship arises after the effective date of this policy. The definition of relative does not include two related judges who are elected to or appointed to serve in the same court.
  - b) “Court Administrator” includes the highest level of administrator, clerk or director of the court who functions under the general direction of the chief justice or chief judge, such as state court administrator, circuit court administrator, friend of the court, probate court administrator, juvenile court administrator, probate register and district court administrator/clerk.
  - c) A “superior-subordinate relationship” is one in which one employee is the direct supervisor of the other employee.
3. Application. This policy applies to all applicants for employment, as well as all full-time and part-time employees, temporary employees, contractual employees, including independent contractors, interns, vendors, and personal service contracts. For purposes of this provision, an intern is a student or trainee who works for the court, with or without pay, to gain work experience. Further, a vendor is an individual or someone appearing on behalf of a corporation or other entity that offers to provide or provides goods or services to the court.

4. Affected Employees. No person shall be transferred, promoted, or rehired following separation in a position that would create a nepotism relationship in violation of this policy.
5. Collective Bargaining Agreements. After the effective date of this order, chief judges and court administrators are prohibited from entering into collective bargaining agreements inconsistent with this policy.
6. Conflicts. The chief judge of a court shall resolve any employment situations that conflict with or would conflict with this policy, unless the conflict involves a relative of the chief judge. In such a situation, the State Court Administrator shall resolve the issue.
7. Chief Judge Appointments. Nothing in this policy prohibits the Supreme Court from selecting any judge as a chief judge of a court. If such selection occurs, and such selection creates a nepotism relationship, the putative chief judge shall provide to the Court, and the Court shall approve, an alternative means by which the relative of the chief judge shall be supervised.
8. Grandfather clause. This policy shall not apply to any person who is an employee of a court on [insert effective date of order]. However, from the effective date of this order, no person may be transferred, promoted, or enter into a nepotism relationship in violation of this policy.

*Staff Comment:* The proposed new administrative order would provide a clearer and simplified version of the antinepotism policy to be used by courts in Michigan.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Office of Administrative Counsel in writing or electronically by July 1, 2016, at P.O. Box 30052, Lansing, MI 48909, or

[ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When filing a comment, please refer to ADM File No. 2014-03. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 23, 2016

  
Clerk