

Office of the State Court Administrator



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To: Chief Judges, Chief Probation Officers, District Administrators and SCAO Senior Staff

From: Mindy Masias, Chief of Staff for 
Gerald A. Marroney, State Court Administrator

Date: June 1, 2015

Re: Policy Regarding Judicial Branch Employees Conducting Work for the Judicial Branch as Independent Contractors

BACKGROUND: The Colorado Judicial Branch has been monitoring the use of Independent Contractors to ensure compliance with all state and federal laws including but not limited to Fair Labor Standards, Section 530 of the Internal Revenue Service Revenue Act, and state unemployment regulations.

In the past, the Judicial Branch made Employee/Independent Contractor decisions independently of the Executive Branch by conducting a thorough analysis of each case. A technological advancement by the Executive Branch allowing the Payroll System and CORE payment system to share data has created a flag system that “catches” current or previously employed state employees that share an employee and independent contractor status. This has necessitated coordination with the Executive Branch to compel the release of vendor holds on workers identified as Independent Contractors for both current and past employees of the Judicial Branch and other Colorado state agencies.

Of additional concern is the potential for an appearance of conflict of interest that may arise when employees are conducting independent contractor work that is closely related to programs managed by the Judicial Branch. Public trust in the impartiality of the Judicial Branch is of the utmost importance in conducting the business of the courts and probation.

POLICY: In order to resolve the concerns regarding our current practices, beginning in FY16 (July 1, 2015) Colorado Judicial Branch personnel may not serve concurrently as independent contractors for the Judicial Branch. Independent contracts for current Judicial personnel that are set to expire on June 30, 2015 will not be renewed, and all other such contracts crossing over the fiscal year end shall be terminated no later than Dec 31, 2015. This policy applies to judges, classified employees and contract employees.

Former judges or employees who seek to engage in independent contract work with the Judicial Branch must meet the IRS and Department of Labor factor tests set out to determine independent contract or employee status in order to be approved for such work. Specific information utilized to make such determinations can be found on the IRS website or by accessing the following link: [IRS website](#). The Human Resources Division, in consultation with the Executive Division, will review prospective contractor arrangements prior to execution of an independent contract to ensure compliance with all applicable laws and regulations and will make final determination as to appropriate status.

In accordance with Colorado Judicial System Personnel Rule 22.B.(4), Judicial employees who seek to provide services as an independent contractor for other Colorado State government entities must obtain written approval from their Administrative Authority before engaging in secondary employment. If secondary employment is approved, Judicial employees should be encouraged to notify the government entity receiving the services of their status as a State of Colorado employee. The receiving entity is responsible for determining whether the worker is an employee or an independent contractor for purposes of providing payment for any services performed.

Colorado Revised Statutes 13-4-104.5 addresses the temporary appointment of retired judges, thus this policy does not impact the Senior Judge Program.