

Order

Michigan Supreme Court
Lansing, Michigan

March 19, 2020

Bridget M. McCormack,
Chief Justice

ADM File No. 2019-32

David F. Viviano,
Chief Justice Pro Tem

Proposed Administrative Order
Regarding Professionalism Principles
for Lawyers and Judges

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

On order of the Court, this is to advise that the Court is considering the adoption of an Administrative Order regarding professionalism principles for lawyers and judges. 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. 2020-XX – Professionalism Principles for Lawyers and Judges

In fulfilling our professional responsibilities, we, as attorneys and officers of the court, must remain mindful of our obligations to the administration of justice and its truth-seeking process designed to efficiently resolve disputes in a rational and peaceful manner. In serving in our professional capacity, we adhere to these principles of professionalism:

1. We are civil in our interactions with all people involved in a legal matter or the justice system.
2. We treat all people involved in a legal matter or the justice system with respect.
3. We cooperate with each other within the bounds of our justice system.
4. We extend professional courtesy to each other.
5. We do not engage in, or tolerate, conduct that may be perceived as rude, abrasive, hostile, or obstructive.
6. We do not disparage or attack other persons involved in the justice system, or employ hostile, demeaning, or humiliating words in written or oral communications or opinions.
7. We do not exhibit, act upon, or manifest bias against any person involved in a legal matter or the justice system.

8. We treat all people involved in a legal matter or the justice system fairly, regardless of their personal characteristics or viewpoints.
9. We act with honesty and integrity in our interactions with all people involved in a legal matter or the justice system and honor promises and agreements fairly reached.
10. We act in good faith and advance only those positions just under the facts and law.

COMMENTARY ON PROFESSIONALISM PRINCIPLES FOR LAWYERS AND JUDGES

Rule 1 of the Rules Concerning the State Bar provides, in part, that the “State Bar of Michigan shall . . . aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this State.” To achieve these lofty goals, we have established ten principles of professionalism (“Principles”) as guidance to attorneys in the practice of law and judges during the adjudicative process on acceptable conduct in the practice of law. The Principles are not intended to form the basis for discipline, professional negligence, or sanctions, or to replace the Michigan Rules of Professional Conduct, the Michigan Code of Judicial Conduct, or the Michigan Court Rules, although many of the Principles are derived from them. Nevertheless, lawyers and judges together should exhibit the highest levels of professionalism to preserve and advance our noble profession, and to serve as exemplars to the public we serve.

The Principles are intertwined, but each Principle deserves to be singled out because of its individual importance to professionalism. Civility is the foundation for professionalism, and it requires respect, cooperation, courtesy, fairness, honesty, good faith, and integrity. Nor can civility exist in the presence of personal attacks, bias, or prejudice.

A lawyer is responsible to zealously represent a client, but zealous representation does not include unprofessional conduct. Unprofessional conduct increases the cost of transactional matters and litigation and wastes judicial resources, with no benefit to the client and to the detriment of the legal profession, and most important, of our justice system.

Besides adhering to the Principles, lawyers and judges work to achieve balance in their lives knowing that personal health and wellness are necessary for the best treatment of others. Lawyers and judges are also encouraged to devote time to reflect on their behaviors and interactions with others to grow and abide by the Principles.

The Principles offer general guidance in the practice of law for lawyers and judges, both inside and outside the courtroom, including in alternative dispute resolution proceedings. These examples provide a better understanding of the Principles; they are illustrative and not meant to encompass all specific conduct:

1. Lawyers

- We allow opposing counsel to make their arguments without interruption, and we fairly consider their arguments.
- We promptly respond to communications from clients and other attorneys.
- We confer early and in good faith to discuss the possibility of settlement, but not as a means to adjourn discovery or delay trial.
- We accurately represent, characterize, quote and cite facts and authorities in our written and oral communications.
- We draft documents that accurately reflect the parties' understandings, the court's rulings, and the facts.
- We do not engage in ex parte communications unless authorized by law.
- We only make proper objections grounded in rules of evidence and procedure.
- We are punctual and arrive sufficiently before, and are prepared for, all proceedings.
- We are punctual in our professional interactions with clients, attorneys and others outside of the court.
- We are considerate of the time schedules of lawyers, parties, and witnesses.
- We are reasonable and act in good faith in scheduling hearings, conferences, depositions, and other proceedings.
- We are respectful of the personal emergencies and exigencies of litigation or practice in scheduling.
- We attempt to verify the availability of necessary participants and witnesses before dates for hearings or trial are set, or, if that is not feasible, immediately after such dates have been set.
- We give notice of any scheduling changes or cancellations at the earliest practicable time.
- We only make good faith requests for time extensions.
- We agree to good faith, reasonable requests for time extensions and waivers of formal procedure if they are not prejudicial to the interests of our clients.
- We act in good faith in deciding when to file or serve motions and pleadings.
- We only make discovery requests reasonable in scope and nature.
- We respond promptly to reasonable discovery requests by the opposing party.
- We only engage in conduct during a deposition that is allowed in the presence of a judicial officer and is appropriate under court or evidentiary rules.
- We readily stipulate to undisputed facts.

2. Judges

- We are patient and respectful of a party's right to be heard and afford this opportunity.
- We do not condone a lawyer being uncivil to another lawyer or others, and we call such conduct to the attention of the offending lawyer on our own initiative.
- We see as paramount our obligations to the administration of justice to facilitate the resolution of the matters before us consistent with the law and in a civil manner.
- We endeavor to work with other judges to foster cooperation in our mutual goal of enhancing the administration of justice.
- We are courteous, respectful, and civil in opinions, ever mindful that we are the ultimate measure of the public's faith and confidence in our system of justice.
- We are punctual in convening the business of the court.
- We are considerate of the time schedules of lawyers, parties, and witnesses.
- We are respectful of the personal emergencies and exigencies of litigation or practice in scheduling.
- We assure that judicial proceedings are conducted with dignity, decorum, and courtesy.
- We maintain control of the proceedings, recognizing that we have both the obligation and authority to ensure that all proceedings are conducted in a civil manner.
- We do not engage in practices and procedures that needlessly increase litigation expense or contribute to unnecessary delay.
- We recognize that a lawyer has the right and duty to present a cause fully and properly and that a litigant has the right to a fair and impartial hearing. Within the practical limits of time, we allow lawyers to present proper arguments and to make an accurate record.
- We make all reasonable efforts to decide promptly all matters presented to us for decision.
- We assure that people with disabilities interacting with the court as lawyers, parties, witnesses, and jurors know the court's ability to make reasonable accommodations.
- We ensure that self-represented litigants have equal access to the legal system while still holding them to the same legal standards as a litigant represented by counsel.
- We ensure that our staff treats litigants, attorneys, and those persons interacting with the justice system with dignity and respect.
- We do not permit ex parte communications unless authorized by law.

Staff Comment: This administrative order would list various “Professionalism Principles” for lawyers and judges as submitted by the State Bar of 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 Supreme Court Clerk in writing or electronically by July 1, 2020, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2019-32. 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 19, 2020

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk