

Nevada Administrative Office of the Courts

District Court Judges Seminar & Family Law Conference

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Recusal and Disclosure

Rule 2.7. Responsibility to Decide

A judge shall hear and decide matters assigned to the judge, except when disqualification is required ...

COMMENT

[1] Judges must be available to decide the matters that come before the court. Although there are times when disqualification is necessary to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available to decide matters that come before the courts. Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge's respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial, or unpopular issues or involve difficult, controversial, or unpopular parties or lawyers.

Recusal and Disclosure

Each state has policy and rule to rely on for the mechanism and grounds for analyzing recusal. It is both an appellate and an ethics issue. One way to discuss the principle in all state courts is to analogize to the law on striking a juror for cause.

Definition of Challenge for Cause - A request to dismiss a prospective juror on the grounds that he or she cannot be fair and unbiased or is otherwise not capable of serving on a jury.

“[T]he existence of a state of mind on the part of the juror in reference to the case, or to any of the parties, which will prevent the juror from acting with entire impartiality, and without prejudice to the substantial rights of any party.”

If the judge determines during the *voir dire* process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or on the judge's own initiative



Nevada's Guardians of Justice

By Claude.AI

From Carson City's courtrooms to Reno's halls, Nevada's judges stand righteous and tall. In Las Vegas, where the neon never sleeps, the scales of justice they faithfully keep.

They rise each morning to a docket filled; Their minds sharp-honed, professionally skilled. Through hours of testimony, evidence weighed, the foundation of fairness carefully laid.

In Elko and Winnemucca, though far apart, they serve with devotion and steadfast heart. From Henderson to Sparks, in chambers they ponder the weight of decisions they must not squander.

The Silver State's guardians, impartial and wise, See truth beyond emotion, beyond disguise. Democracy's defenders in black-robed array, Protecting our freedoms day after day.

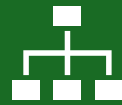
In Mesquite, Boulder City, and Pahrump they preside, With the Constitution and law as their guide. When voices grow angry and tensions ignite, they stand as the bulwark for what's just and right.

Their burden is heavy, their calling profound, in their wisdom our civic virtues abound. Nevada's strength rests in these women and men, who uphold our laws again and again.

Some General AI Considerations



What kind of AI model is it?



Where/Who/How Competent is the
“human in the loop”?



What guidance is available for AI
governance and policy?



What can GenAI do well (with little risk to
court users) and what is too risky or
inappropriate to be used?

The GenAI Model

A Few General Differences in Models

- Open Large Language Models
- Closed AI Systems
- Is the model trying to “please” the user? Or will it say “there is not enough accurate information to answer the prompt?”

Human in the Loop

Human oversight of AI is vital to prevent bias
and ensures human-centered justice.

Guidance for GenAI and the Courts

ABA Resolution 112 (2019)

RESOLVED, That the American Bar Association urges courts and lawyers to address the emerging ethical and legal issues related to the usage of artificial intelligence (“AI”) in the practice of law including: (1) bias, explainability, and transparency of automated decisions made by AI; (2) ethical and beneficial usage of AI; and (3) controls and oversight of AI and the vendors that provide AI.

ABA Resolution 112 (2019)

1. Define AI.
2. AI use in the practice of law.
3. Essential for lawyers to know about AI and how to advise clients.
4. Lawyer ethics issues.
5. Questions for AI vendors.

American Bar Association Formal Opinion 512

July 29, 2024

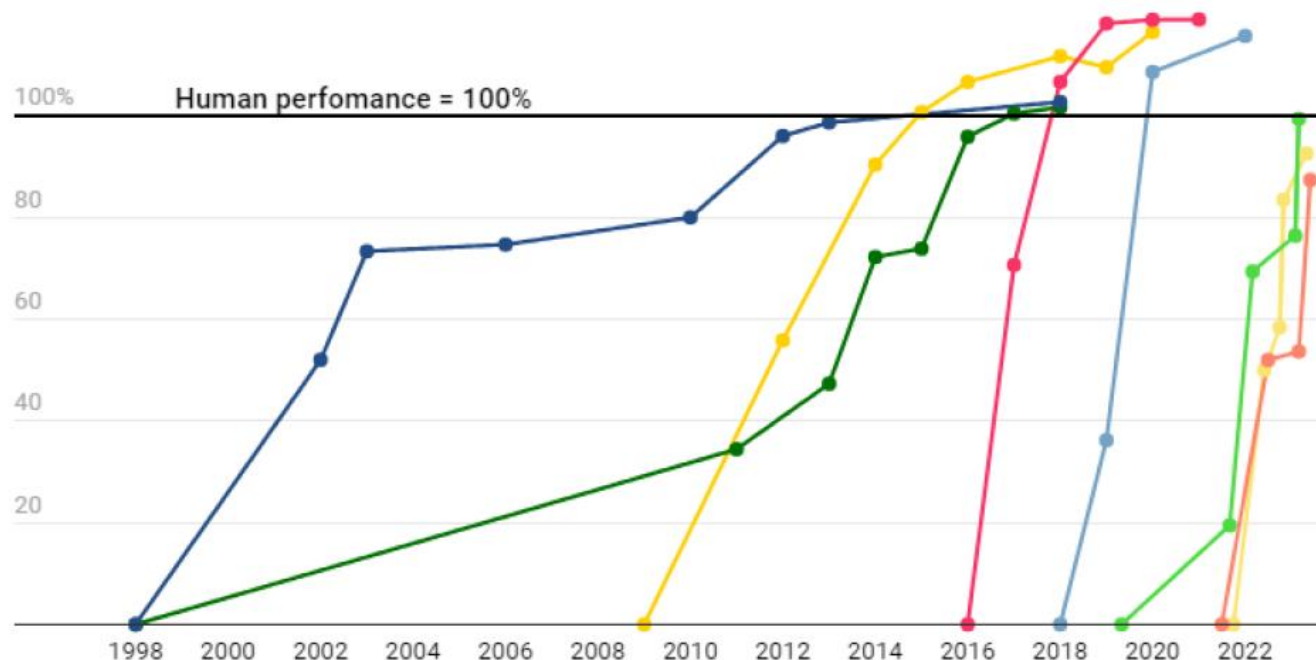
“To ensure clients are protected, lawyers using generative artificial intelligence tools must fully consider their applicable ethical obligations, including their duties to provide competent legal representation, to protect client information, to communicate with clients, to supervise their employees and agents, to advance only meritorious claims and contentions, to ensure candor toward the tribunal, and to charge reasonable fees.”

Good, Bad, and Ugly – GenAI can be all three

AI has surpassed humans at a number of tasks and the rate at which humans are being surpassed at new tasks is increasing

State-of-the-art AI performance on benchmarks, relative to human performance

● Handwriting recognition ● Speech recognition ● Image recognition ● Reading comprehension
● Language understanding ● Common sense completion ● Grade school math ● Code generation



For each benchmark, the maximally performing baseline reported in the benchmark paper is taken as the "starting point", which is set at 0%. Human performance number is set at 100%. Handwriting recognition = MNIST, Language understanding = GLUE, Image recognition = ImageNet, Reading comprehension = SQuAD 1.1, Reading comprehension = SQuAD 2.0, Speech recognition = Switchboard, Grade school math = GSK8k, Common sense completion = HellaSwag, Code generation = HumanEval.

Chart: Will Henshall for TIME • Source: [ContextualAI](#)

TIME

Benefits of Generative AI



SPEED

Can handle larger and more complex data sets than a human.



IDEA/CONTENT CREATION

Can generate new ideas and content that was previously not considered by humans.



RESOURCE GENERATION

Can be used for data set generation, modeling, forecasting.



INTERFACE

Can provide the ability to interact via voice, chat, or images via multiple languages.

Possible Uses in the Justice System

Just because we can
doesn't mean we should.



Predicting Case Outcomes

Using Generative AI to predict based on past cases and legal precedents.



Better Assistance to Self-Represented Litigants

Using Generative AI to tutor and guide Self Represented Litigants through the legal process.



Tailored Proposed Orders, Motions, and Briefs based on the Judge

Using Generative AI to review legal documents and make suggestions based on a Judge's previous rulings.



Automating Legal Research

Using Generative AI to review published cases to find cases or opinions germane to the case at hand.



Predictive Policing

Using Generative AI to predict where policing resources need to be deployed to deter crime.



Providing Better Legal Training to the Community

Using Generative AI to provide training resources such as chatbots and AI generated videos.



Judicial Recommendations

Using Generative AI to provide recommendations to Judges on bail, sentencing, and other adjudicative matters.



Chatbots

Los Angeles County, CA

- Gina for Court Traffic Court Users
 - Handles 4,000 court users a week

Orange County, CA

- Eva – Internal Chatbot
 - Provides Civil Procedural information to staff
 - Reduced fully training of staff from 3-5 years to three (3) months

EVA Companion

Revolutionizing case management

AI-powered EVA Chat streamlines eligibility verification with instantaneous self-service to caseworkers' queries right from their desktops. No more time-consuming research or waiting for assistance from colleagues.



The all-in-one
case manager companion



Hello, welcome to the LACourtConnect Chatbot.

I can help you with these topics. Which best describes your situation?

I need help with a scheduled remote appearance that has started or is about to start

I have questions about a future remote appearance that has already been scheduled

I have questions about my Court ID (required to schedule a remote appearance)

I want to schedule a remote appearance

I have a remote appearance question not related to scheduling

I have a general question about the Attorney Portal

None of these apply

Just now



Which of these apply?

I need general instructions for registration

The information for my hearing is not showing for remote appearance registration

I want to understand the pricing for remote appearances

I am an attorney who needs to appear on behalf of more than 1 litigant

None of these apply

Just now

How to Get Started Using AI in the Court System



Select a few simple “low-risks” tasks



Review Documents



Ensure permission and understand the terms of se



Train staff and judges



Prepare for advanced tasks




Chatbots for justice: The impact of AI- driven tech tools for *pro se* litigants

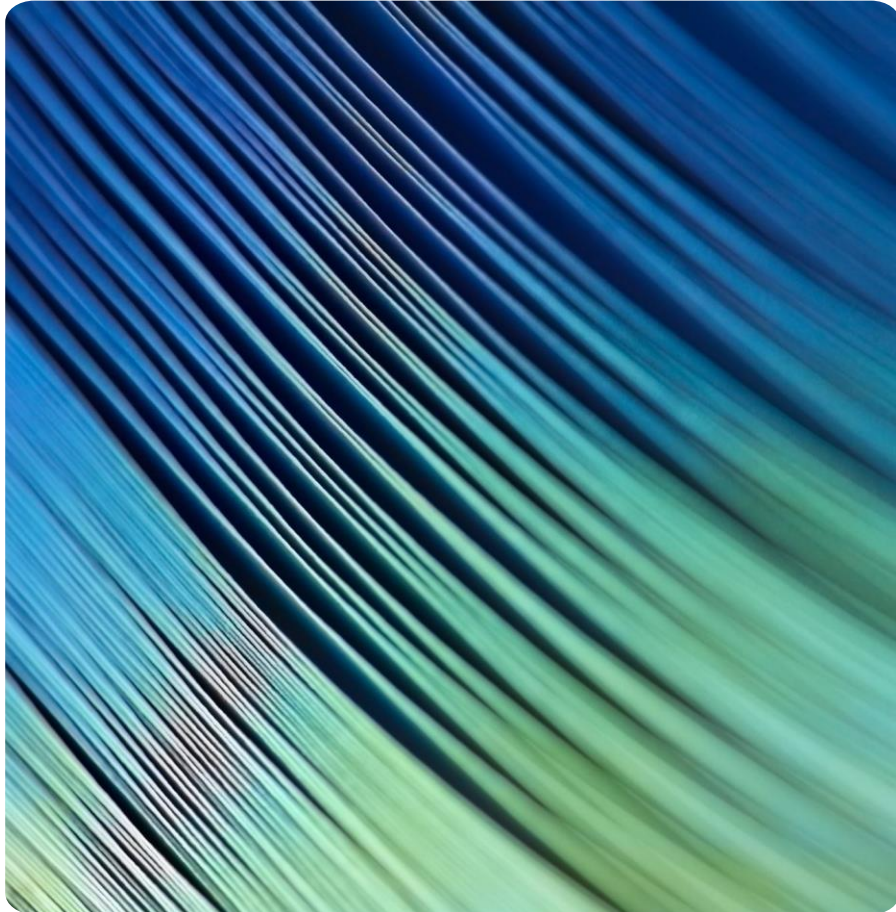
by Natalie
Runyon Director / ESG
content / Thomson
Reuters Institute

Access to justice is a fundamental pillar of a fair and equitable society, yet only one-in-four respondents to the National Center for State Courts' State of the States survey agreed that courts are doing enough to help individuals navigate the court system without an attorney. Many of these *pro se* litigants still face substantial barriers to accessing legal assistance.

However, AI-powered chatbots now offer a promising solution by providing timely, tailored legal information to those in need — and two early examples are the chatbots Beagle+ and AVA.



Chatbots for justice



AI-powered chatbots that provide self-represented litigants with accurate, user-friendly legal guidance are in use continue to be developed.


Beagle+ is a chatbot powered by generative AI (GenAI) and makes Canadian law accessible in plain language. In use in British Columbia.

Testing and refinement led to a 99% accuracy rate in legal conversations.

The Alaska Court System (ACS) partnered with LawDroid and used a grant from NCSC to develop an AI-powered chatbot called the *Alaska Virtual Assistant*. The tool, which is in the final testing phase before launching, will help self-represented litigants navigate probate estate cases.



Chatbots for justice

- Focus on user needs during development
 - Collaborate with an interdisciplinary team
 - Use iterative testing and human review
 - Continuously evaluate and improve the product
 - Dedicate the resources properly
- 

Court Use Cases

E-Filing

- Palm Beach County, Florida
 - Meaningful Annual Savings - \$1.9 million
 - Processes Filings 5 times faster
 - Hands off Processing – 40% of filings
- Tarrant County, Texas
 - Proactively Identifies Errors
 - Reduces eFile Intake period from 48 hours to minutes
 - Improved Quality Control before transfer to CMS

Challenges, Limitations, Legal/Ethical Concerns



COST

Cloud-hosted ongoing costs.
High compute costs.
Environmental costs (climate).
Labor displacement considerations.



DATA

Not enough data.
Bias built-in to existing data.
Only public data should be used.
Scrutiny of processes around data generation.



RELIABILITY

Must be human supervised.
AI hallucinations may occur.
Even Generative AI detection tools may not be accurate.
Rising need for "Prompt Engineering"



OWNERSHIP

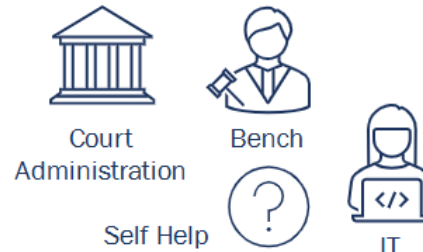
Who owns the generated content?
Should people disclose the use of Generative AI?
How to manage Generative AI in the vendor space?

Where AI technologies will be used

Key

H = High Impact
M = Medium Impact
L = Low Impact

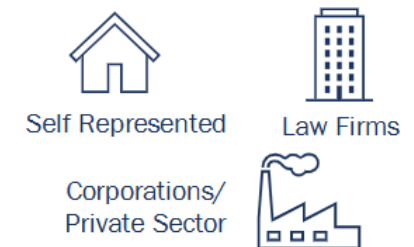
Inside Your Court



Justice Partners



Outside Your Court



Automated entry, docketing & case processing	H	H	M
AI assisted creation of court documents	H	H	M
AI assisted resolution of data quality issues	H	H	M
AI assisted identification of complex cases	H	M	M
New methods & channels for serving litigants	H	M	H
New insights into court data	H	H	M
New internal tools for working more efficiently	H	L	L
Increased access to public records	H	M	H

Possible Misuses in the Justice System

This is why we can't have nice things.



Fake Exhibits

Using Generative AI to create fake photos, videos, and audio of something that did not take place.



Lazy Lawyering

Using Generative AI to create legal documents and filing them as-is with no professional review.



Lazy Legal Researching

Using Generative AI to review legal documents and make suggestions based on a Judge's previous rulings.



Fake Judicial Work Products

Using Generative AI to create a realistic, but fake judicial opinion, order, or decree.



Poorly Designed/Unmanaged Tools

This could include Self-Represented Litigant tools, unsupervised bulk filing tools, or any application proclaiming to use AI.

NCSC AI Rapid Response

State of AI in the Courts

In anticipation of courts considering the adoption of generative AI, the NCSC and the AI Rapid Response Team (RRT) are assembling documentation to serve as a foundational resource for the development of relevant policies and procedures.

The AI RRT resources include features such as:

Data visualization map of court activity by state

Court orders, rules, statutes and proposed legislation

Case law and decisions

State court guidelines and policies



The Main Ethical Issues

Ethical Issues - GenAI and the Courts

Competence

Ex Parte

Rule 11

Confidentiality

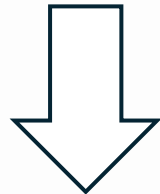
Candor Towards
the Tribunal

Reasonable Fees
(Duty to use AI to
help lower cost
for clients?)

Judicial and Lawyer Ethics Require Competence

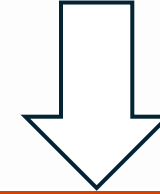
What do the Model Codes Demand?

1.1 Maintaining Competence



[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology...

2.5 Competence, Diligence, and Cooperation



[2] A judge should seek the necessary... expertise, and resources to discharge all adjudicative and administrative responsibilities.

Nevada Rules of Professional Conduct



RULE 1.1 COMPETENCE



A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.



Note: Nevada does not have comment [8] from the Model Code which specifically addresses competence in technology.

Nevada Code of Judicial Conduct



RULE 2.5 COMPETENCE, DILLIGENCE, and COOPERATION



- (A) A judge shall perform judicial and administrative duties competently and diligently.
- (B) A judge shall cooperate with other judges and court officials in the administration of court business.



Comment [1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office.

Elements of AI Competency

01

Have a basic understanding of AI capabilities and how these systems work

02

Understand how AI can assist with legal tasks (and when it cannot)

03

Understand and mitigate risk of hallucinations and logic failures

04

Understand how biased data can result in biased outcomes

05

Be competent in prompt engineering (practice, practice, practice)

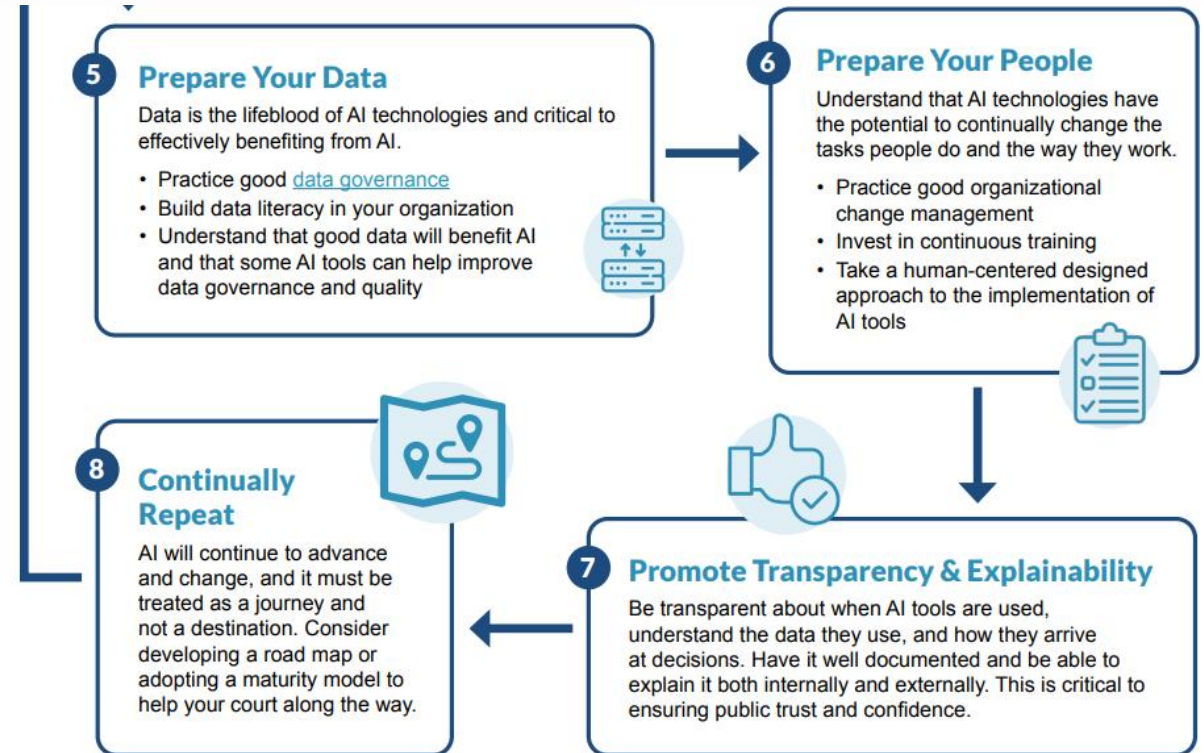
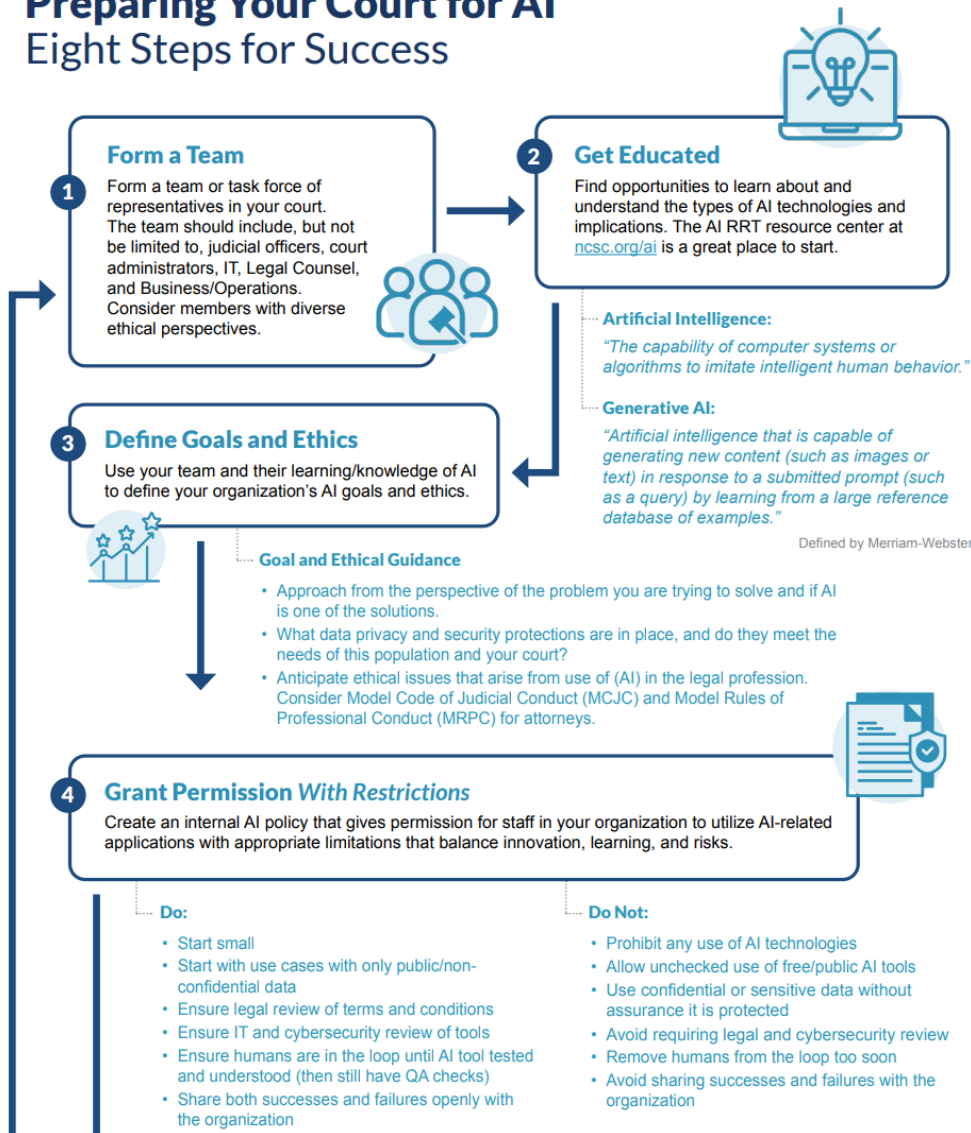
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Understand substantive issues that AI creates for your area of practice

GenAI and the Courts Task Force

Preparing Your Court for AI

Eight Steps for Success



ncsc.org/ai



COSCA
Conference of State Court Administrators



NCSC
National Center for State Courts

Georgia Task Force

GenAI and the Code of Judicial Conduct

“[E]valuate the current Code of Conduct to ensure it adequately guides judicial officers using AI in their duties, addressing issues of competency, ex parte, communications, confidentiality, and potential bias.”



Nevada Rule 2.9 on *Ex Parte* Communication

(C) A judge shall not investigate facts in a matter independently and shall consider only the evidence presented and any facts that may properly be judicially noticed.


- **The Appeal of GenAI for Language Access**

- The enthusiasm for using genAI in court communication stems from noble intentions:

- The desire to communicate effectively
- The need to avoid delaying justice
- The goal of providing helpful information to court users
- While these motivations come from a good place, it's crucial to examine the limitations and hurdles of genAI as a solution for language access issues in the court system.

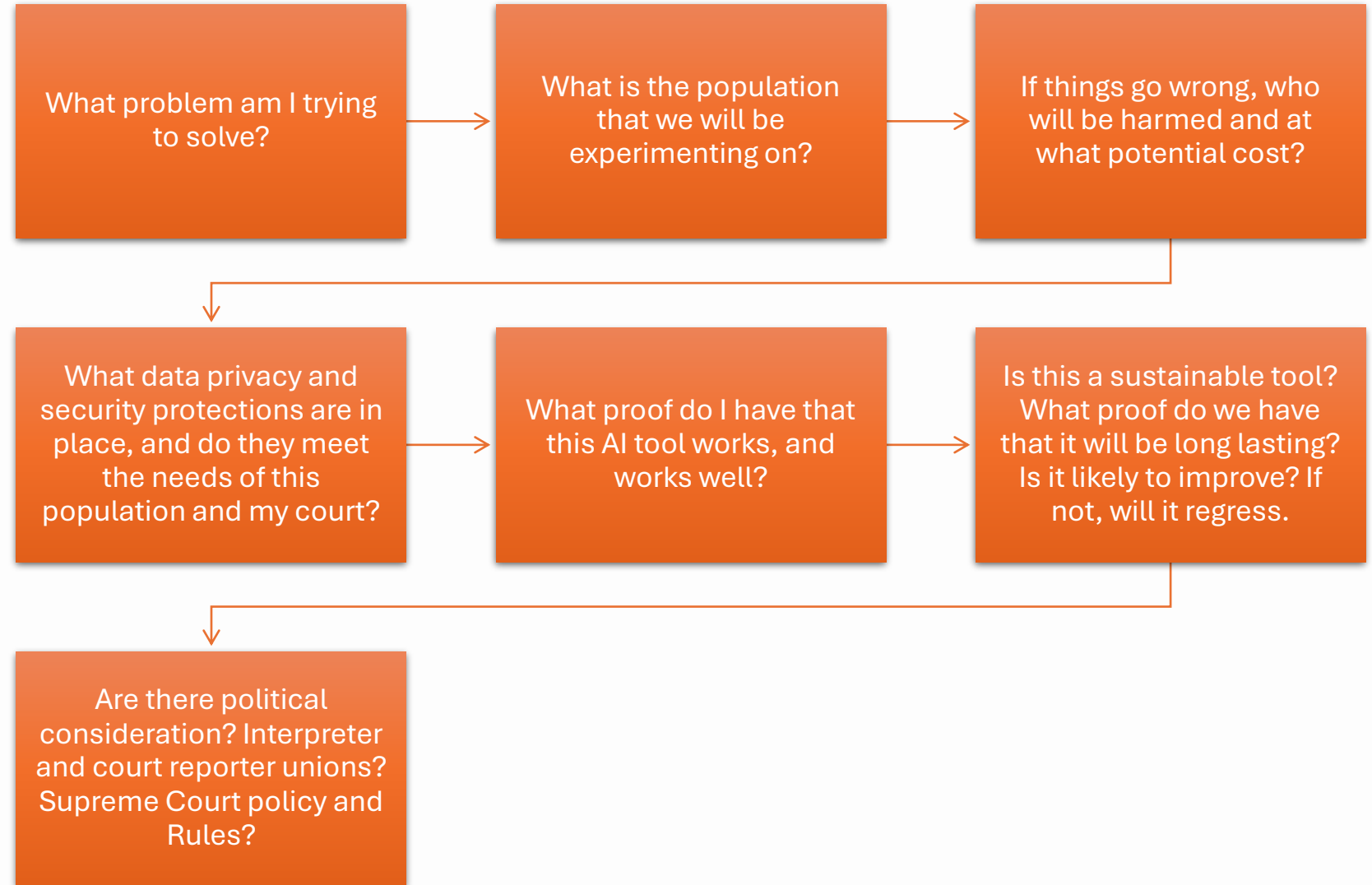
South Dakota Judiciary Guidance on Use of AI Interpretation

AI applications, such as translator apps, should never be used in the courtroom or for any substantial conversation. They may be used for preliminary conversations at the front desk when determining what type of information or help someone is seeking.

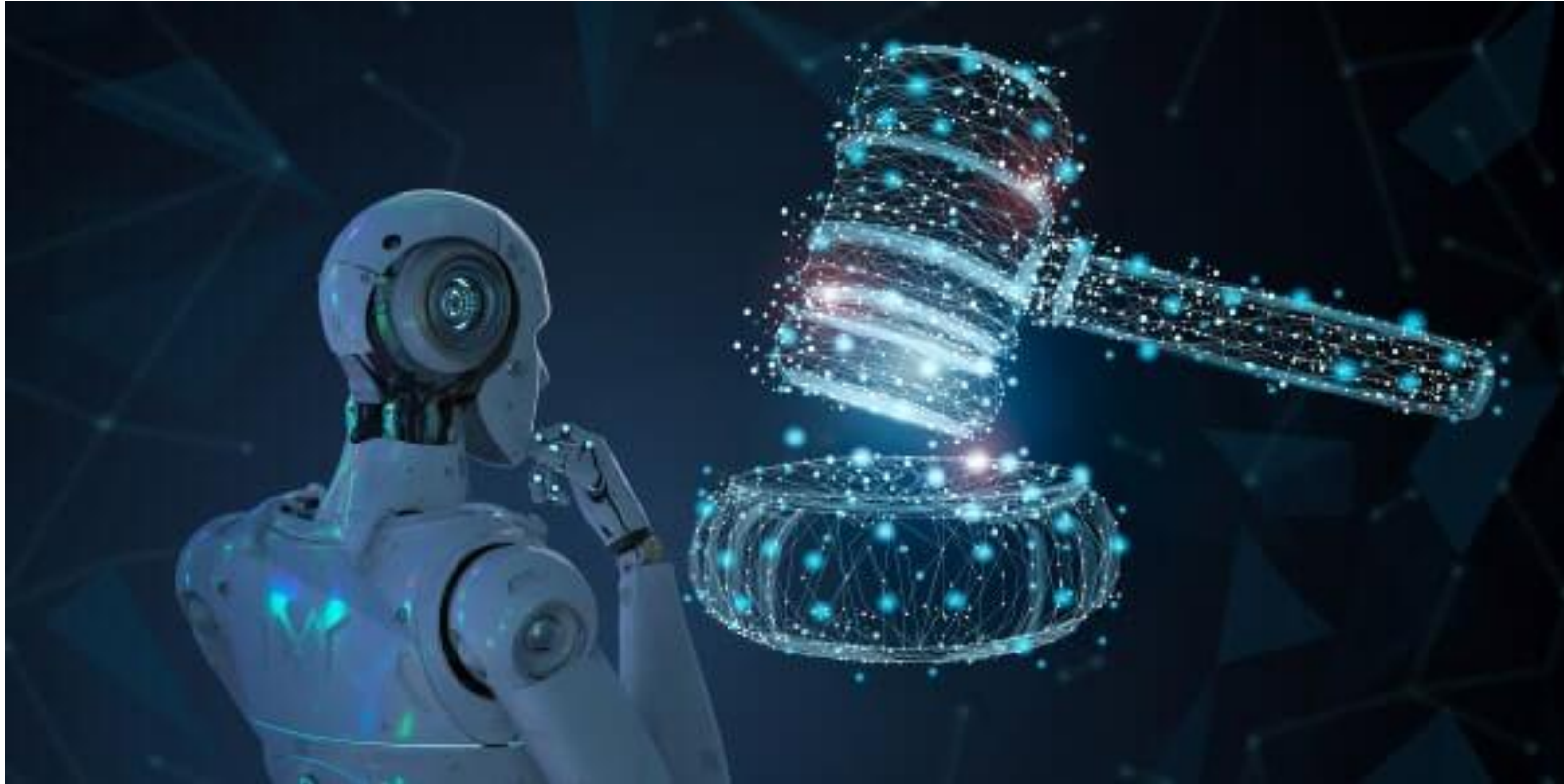


- South Dakota Unified Judicial System
Generative Artificial Intelligence Guidance

Zach Zarnow, the NCSC Deputy Managing Director of the Access to Justice Team, has developed a series of questions to assist taskforces in their work:



Case Examples



Kohls v.
Ellison
24-cv-3754
(LMP/DLM)
(D. Minn.
Jan. 10,
2025)

Minnesota law prohibits, under certain circumstances, the dissemination of “deepfakes” with the intent to injure a political candidate or influence the result of an election. Plaintiffs challenge the statute on 1st A. grounds and seek preliminary injunctive relief prohibiting its enforcement.

In opposition to Plaintiffs' preliminary-injunction motion, MN Attorney General submitted two expert declarations: One was from Jeff Hancock, Professor of Communication at Stanford University and Director of the Stanford Social Media Lab. His declaration generally offered background about artificial intelligence, deepfakes, and the dangers of deepfakes.

Kohls v.
Ellison
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Professor Hancock subsequently admitted that his declaration inadvertently included citations to two non-existent academic articles and incorrectly cited the authors of a third article. These errors apparently originated from Professor Hancock's use of a generative AI tool to draft his declaration. The tool provided fake citations to academic articles, which Professor Hancock failed to verify before including them in his declaration.

The AG acknowledged the fake citations in the Hancock Declaration while asserting that his office had no idea that the Hancock Declaration contained fake, AI-generated citations. Because the deadline to submit his response to Plaintiffs' preliminary-injunction motion had already elapsed, they requested the Court's leave to file an amended Hancock Declaration, citing excusable neglect to allow the late filing.

Kohls v.
Ellison
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The irony. Professor Hancock, a credentialed expert on the dangers of AI and misinformation, has fallen victim to the siren call of relying too heavily on AI in a case that revolves around the dangers of AI, no less.

[T]he fact remains that Professor Hancock submitted a declaration made under penalty of perjury with fake citations.

Indeed, the Court would expect greater diligence from attorneys, let alone an expert in AI misinformation at one of the country's most renowned academic institution.

The Court thus adds its voice to a growing chorus of courts around the country declaring the same message: verify AI-generated content in legal submissions!

Kohls v.
Ellison
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The question, then, is what to do about the Hancock Declaration:

[G]iven that the Hancock Declaration's errors undermine its competence and credibility, the Court will exclude consideration of Professor Hancock's expert testimony in deciding Plaintiffs' preliminary-injunction motion.

The AG is reminded that Fed.R.Civ.P. 11(b) imposes a “personal, nondelegable responsibility” to “validate the truth and legal reasonableness of the papers filed” in an action.

An “inquiry reasonable under the circumstances,” may require attorneys to ask their witnesses whether they have used AI in drafting their declarations and what they have done to verify any AI-generated content.



Resources

AI and the Courts: Judicial and Legal Ethics Issues

Courts need to anticipate the ethical issues that arise from the use of artificial intelligence (AI) in the legal profession. Principles in the Model Code of Judicial Conduct (MCJC) and the Model Rules of Professional Conduct (MRPC) for lawyers are implicated when AI is used in the courts.

Competence in Technology is an Ethical Requirement

Judicial officers and lawyers have a basic duty to be competent in technology relevant to their profession. MCJC 2.5 imposes a duty of competence on judicial officers and an obligation to keep current with technology and to know the benefits and risks associated with all types of technology relevant to service as a judicial officer. MRPC 1.1 states that lawyers must provide competent representation to their clients which includes technical competence.

Judicial officers and lawyers must:

- Have a basic understanding of AI, including generative AI, and its capabilities. This includes knowledge of the terms of use and how the data will be used by the AI tool, as well as general familiarity with machine learning algorithms, natural language processing, and other AI techniques relevant to legal tasks.
- Analyze the risks associated with using AI for research and drafting, such as bias or hallucinations (made up responses).
- Determine which areas of practice or processes can be improved with AI.
- Determine where AI may not be appropriate for use in the legal profession or the judicial system.
- Learn how to optimize prompts to get better results when using generative AI models such as Chat-GPT, Gemini, or Co-Pilot.
- Identify which issues may require new policies or rules for AI use in the court system.

Ethical Standards for Consideration

Judicial Ethics Issues

Judicial officers should be aware of the potential for ethical issues arising from AI usage and keep the following rules in mind when using or considering AI.

Ex Parte Communication (MCJC 2.9)

The Rule prohibiting ex parte communication also prohibits considering “other communications made to the judge outside the presence of the parties or their lawyers” (MCJC 2.9[A]), and material generated by AI could arguably be viewed as information outside the case that is improperly introduced into the judicial decision-making process. Rather than merely reviewing and summarizing case law, many AI-generated results have built-in biases. Relying on such information could also result in a violation of the Rule’s provision barring independent investigation (MCJC 2.9[C]). External influences on judicial conduct (MCJC 2.4) could also be an issue when a judge relies on an AI program that sets forth an opinion on legal policy.

Confidentiality

Judicial officers have a duty of confidentiality, and they must be cognizant of whether they — or their clerks or staff — are entering confidential, sensitive, or draft information into an open AI system when conducting legal research or drafting documents, and how that information is being retained and used by the AI technology. In an open system, it is possible the AI tool will use the shared information to train the model, potentially breaching confidentiality. Judges must avoid inadvertently releasing confidential information. This is also true for lawyers per MRPC 1.6.

Artificial Intelligence (AI) | Interim Guidance

Impartiality and Fairness (MCJC 2.2)

The Rule requiring judges to perform their duties fairly and impartially could be triggered if a judge is influenced by an AI tool that produces results infected by bias or prejudice.

Bias, Prejudice, and Harassment (MCJC 2.3)

Judicial officers need to be aware of the potential bias or prejudice inherent in certain AI technology and that using it could violate the Rule against acting with bias or prejudice if the AI tool has biased data in its algorithm or training data.

Hiring and Administrative Appointments (MCJC 2.13)

Judicial officers should be aware of the risks of bias or discrimination if AI tools are used to help screen prospective clerks or other staff or to otherwise assist in the hiring process. If the algorithmic recruiting program is biased, it could produce results or recommendations based on discriminatory information, which could violate the rule requiring judges to make appointments impartially and on the basis of merit, as well as Title VII. Attorneys using AI technology in making hiring decisions should be mindful of a similar provision, which forbids engaging in invidious discrimination in conduct related to the practice of law. MRPC 8.4(g).

Duty to Supervise (MCJC 2.12)

Judicial officers have a duty to supervise staff and to make sure they are aware of the obligations under the rules which extend to ensuring staff are using AI technologies appropriately.

Attorney Ethics Issues

Along with the Rules referenced above, lawyers should consider the following rules when using AI.

Responsibilities of a Partner or Supervisory Lawyer (MRPC 5.1)

Partners and other lawyers with “managerial authority” (MRPC 5.1[a]) will be held accountable for ensuring that other lawyers in the firm comply with the Rules of Professional Conduct. Therefore, training in the ethical use of artificial intelligence and policies for lawyers in the firm is necessary. Of course, this also presupposes competence with technology, as discussed earlier.

Responsibilities Regarding Nonlawyer Assistants (MRPC 5.3)

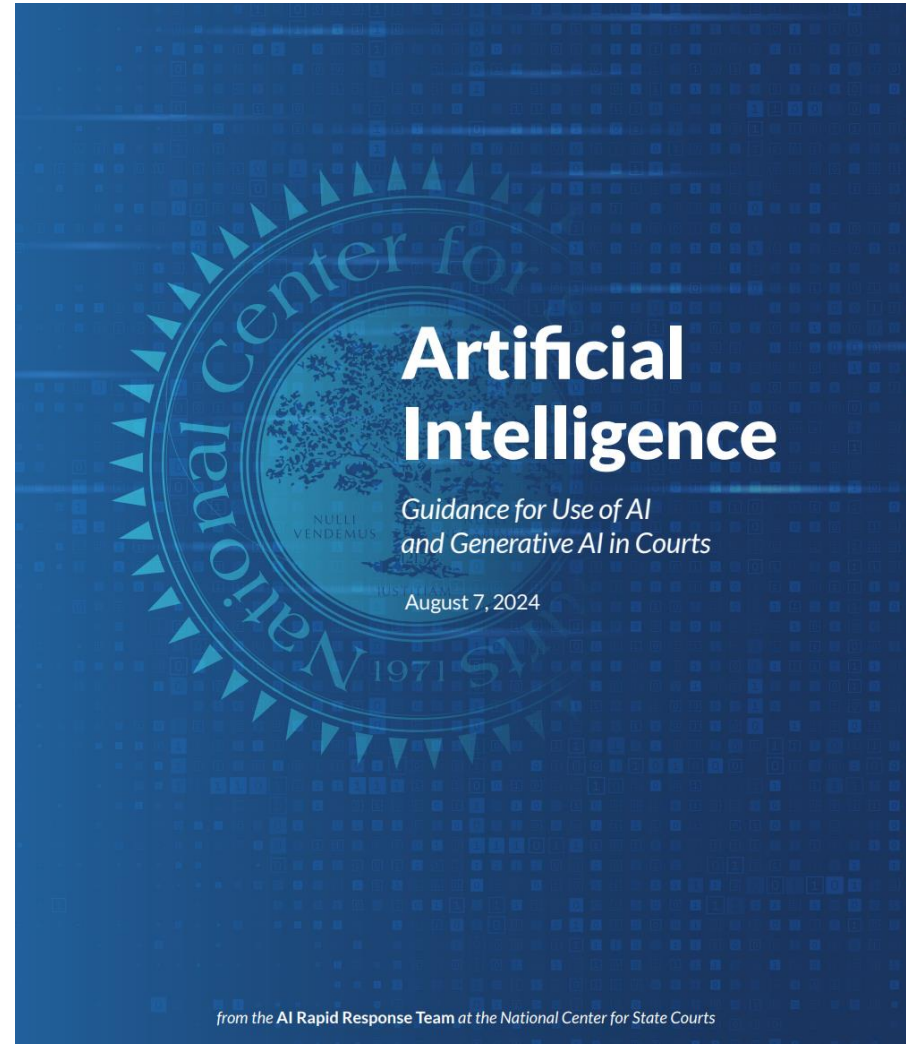
The Rule governing oversight of the work of nonlawyers could be triggered when a subordinate is tasked with deciding which particular AI tool to use, and further while implementing those tools. In addition, the AI technology itself arguably could be considered nonlawyer assistance.

Fees (MRPC 1.5)

Lawyers will have to navigate the issues of using AI to the financial benefit of the client, not using AI if a client specifically chooses not to have it used on their legal matters, and determining proper fee schedules for using, supervising, and editing a product that relies on generative AI.

Rules that may also be germane to the use of artificial intelligence in the practice of law include MRPC 5.5 (Unauthorized Practice of Law), MRPC 3.2 (Expediting Litigation), and MRPC 3.3 (Candor towards the Tribunal), among others.

In sum, understanding AI’s capabilities and risks, especially regarding bias and confidentiality, is a necessity for technological competence. Court professionals must stay up to date on developments in AI and the potential ethical implications of using it.




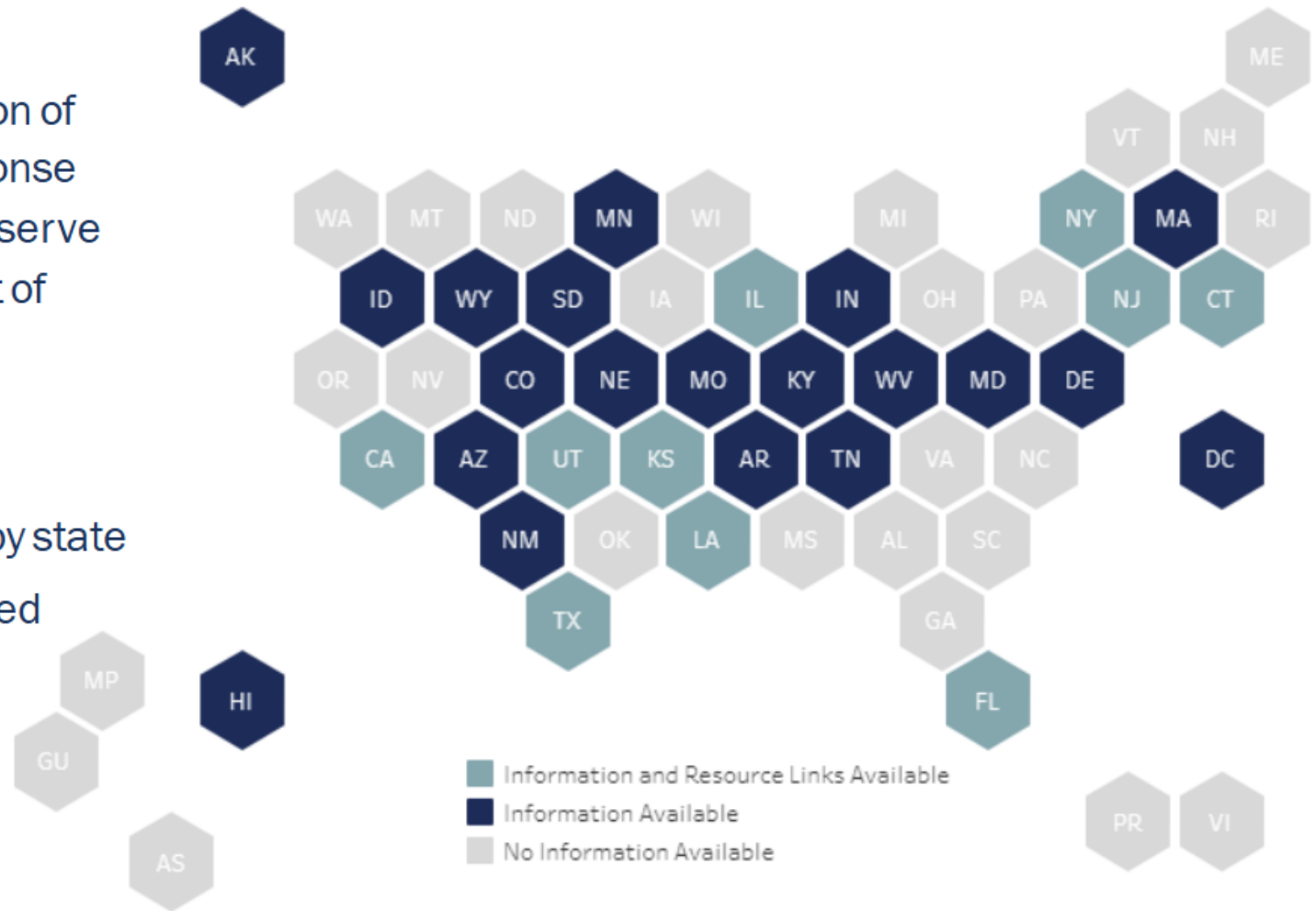
NCSC Rapid Response

State of AI in the Courts

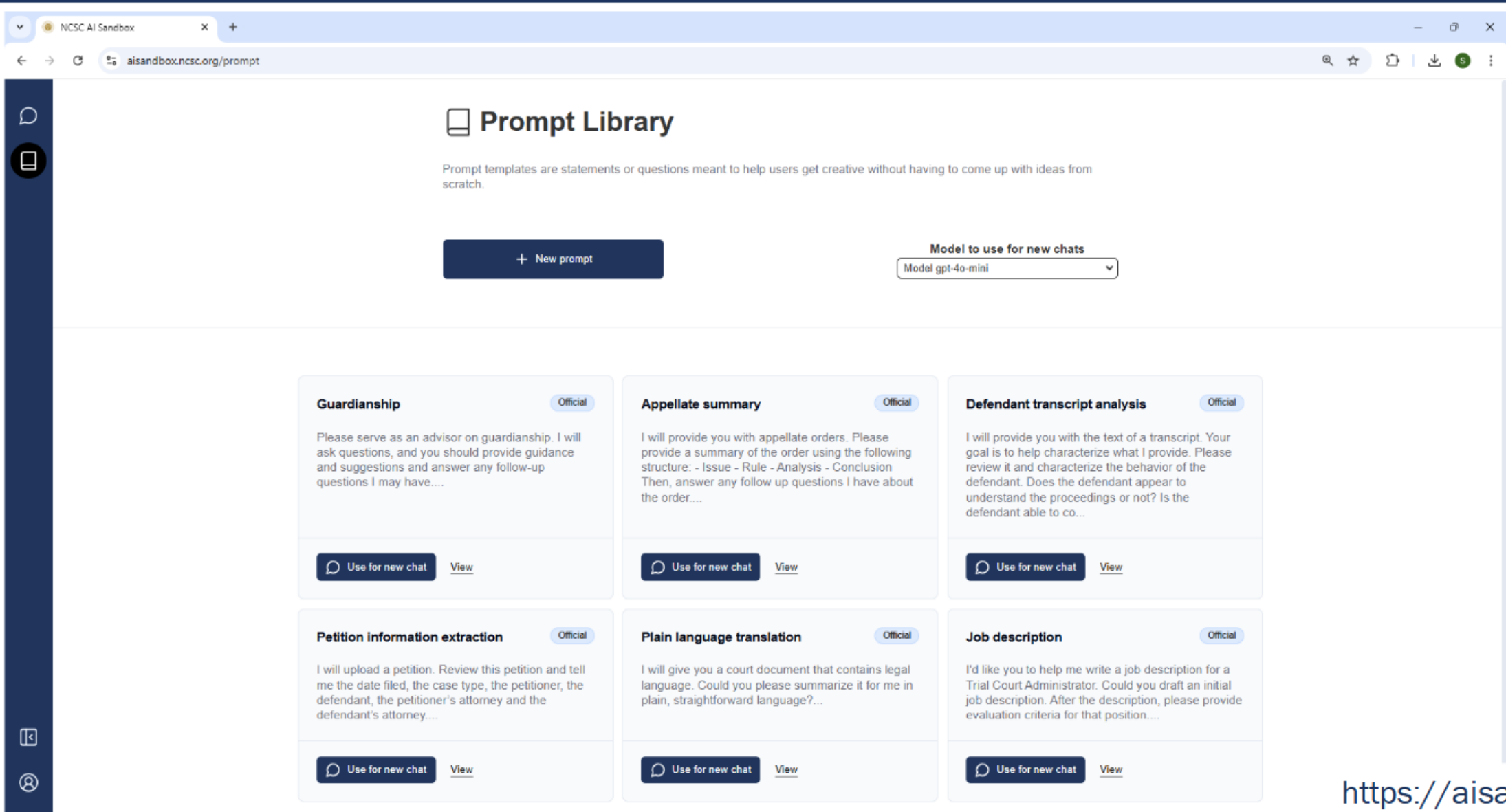
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Resources include:

- Data visualization map of court activity by state
 - Court orders, rules, statutes and proposed legislation
 - Case law and decisions
 - State court guidelines and policies
- 



NCSC Sandbox



<https://aisandbox.ncsc.org>



Questions

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Work Areas for the CJE

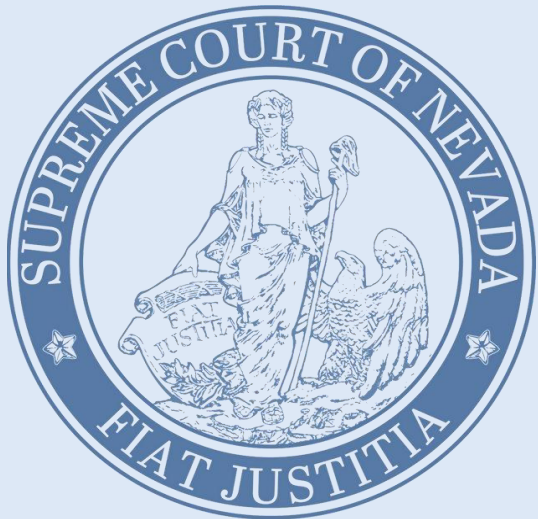
Consulting

Education

Information

International

New Platforms



2025 Family Law Conference & District Court Judges Seminar

Session Evaluation

Tuesday, April 15th - Friday, April 18th

Help us ensure that these conferences meet your educational needs. . .

**Please take a moment to
evaluate this session!**

SCAN THE QR CODE!

Or check your email for the website link.

