GENERAL GUIDANCE

ISSUED: December 10, 2025

General Ethics Guidance No. 2-2025

USE OF GENERATIVE ARTIFICIAL INTELLIGENCE

The Supreme Court of Pennsylvania has designated the Judicial Ethics Advisory Board (JEAB or Board) as the approved body to render Advisory Opinions and General Guidance regarding ethical concerns involving persons subject to the Code of Judicial Conduct and the Rules Governing Standards of Conduct of Magisterial District Judges (Codes). The Rules of the JEAB provide that, when a Judicial Officer complies with General Guidance of the JEAB, such compliance may be taken into account in determining whether discipline should be recommended or imposed. PA.J.E.A.B. RULE 206(c). This document qualifies as "General Guidance" of the JEAB.

In addition to reviewing the JEAB's General Guidance, Judicial Officers and candidates for judicial office may request an Advisory Opinion from the JEAB. *See* PA.J.E.A.B. RULE 201.

Where a Judicial Officer complies with an Advisory Opinion of the JEAB, such compliance shall be entitled to substantial weight in determining whether discipline should be recommended or imposed. *See* PA.J.E.A.B. RULE 206. The "Rules of Reliance" provide greater protection to a Judicial Officer or judicial candidate who obtains an Advisory Opinion of the Board than that offered by only reviewing a General Guidance.

Introduction

The Supreme Court's recent *Interim Policy on the Use of Generative Artificial Intelligence by Judicial Officers and Court Personnel* (ordered September 9, 2025, effective December 8, 2025) (hereinafter referred to as the "Court's policy") ushers in a new era for the Pennsylvania judiciary. Judiciary personnel may now, within the confines of the policy, use Generative Artificial Intelligence (GenAI) in creating certain work products.

Artificial Intelligence (AI) and GenAI are broad and extensive topics that cannot be adequately explained in these pages. Rather, this document will provide basic foundational information concerning this technology and focus on the major ethical responsibilities of those subject to the Pennsylvania Code of Judicial Conduct and the Rules Governing Standards of Conduct of Magisterial District Judges (collectively hereinafter referred to as the "Codes") as they relate specifically to GenAI.

The Court's policy defines "Artificial Intelligence" as "the capability of computer systems to imitate intelligent human behavior."[1] AI acts as more of an umbrella term, while "Generative Artificial Intelligence" could be considered a subcategory of AI.[2,3] The Court's policy defines "GenAI" as "algorithms and/or computer processes that use artificial intelligence to generate text, audio, or images based on user prompts. These systems may be (and, presently, mostly are) trained on sets of data from the Internet or proprietary sources." *See* Section 1(B), (F) of the Supreme Court Order of September 9, 2025.

Generally, GenAI tools work by using "probabilities and statistics to predict the most-likely next word in a response based on their training data, which, for the most part, is content scraped from the Internet. The models may see thousands upon thousands of examples of sentences about a certain topic and the output they deliver is based on what has been most commonly written. That may be accurate, biased, or completely wrong, but the [large language model] will look for what has been most commonly said in its training data and replicate that."[4] GenAI tools are built to continuously "learn" from inputted material and to adjust its outputs accordingly.

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[1] "Artificial intelligence." Merriam-Webster.com Dictionary, Merriam-Webster, https://www.merriam-webster.com/dictionary/artificial%2ointelligence. Accessed 10 Mar. 2025.

[2] Maura R. Grossman, Paul W. Grimm, Daniel G. Brown, *The GPTJudge: Justice in a Generative AI World*, p. 9, Duke Law & Technology Review, Vol. 23, No. 1, 2023 and Duke Law School Public Law & Legal Theory Series No. 2023-30.

[3] Paul W. Grimm, Maura R. Grossman, Sabine Gless, and Mireille Hildebrandt, *Artificial Justice, The Quandary of AI in the Courtroom*, p. 1, Judicature International, September 2022, Bolch Judicial Institute at Duke University School of Law.

[4] Maura Grossman, *Generative AI and the legal system*, pg. 2, Transcript of Interview re: "The GPTJudge: Justice in a Generative AI World," Duke Law & Technology Review, Vol. 23, No. 1, 2023 and Duke Law School Public Law & Legal Theory Series No. 2023-30.

Despite its ability to "learn," GenAI is limited because it has no true comprehension of material. It merely predicts what may come next, which can sometimes produce "plausible sounding but incorrect or nonsensical answers."[5] "Also, the output quality of [GenAI] is only as good as the data it has been trained on[,]" thus, "biases in the training data can lead to biased or flawed outputs."[6] While GenAI tools may be able to create highly detailed content, the content could be entirely factually incorrect (called a hallucination).[7] Although GenAI models "have demonstrated impressive capabilities—even passing the bar exam—it is vital to recognize their limitations. Understanding the technology allows users to harness its strengths and mitigate its weaknesses effectively."[8]

Competence

For Judicial Officers, understanding and becoming proficient in GenAI is an ethical obligation. Rule 2.5 (*Competence, Diligence and Cooperation*) provides that judges shall "perform judicial and administrative duties competently and diligently" and "cooperate with other judges and court officials in the administration of court business." Pa. Code Jud. Conduct and Pa.R.M.D.J. Rule 2.5(A), (B). Comments [1] and [2][9] of Rule 2.5 further clarify these directives. Comment [1] provides a definition of "competent." Being competent in one's judicial duties requires legal knowledge, skill, thoroughness, and the preparation reasonably necessary to perform a judge's responsibilities of judicial office. Pa. Code Jud. Conduct and Pa.R.M.D.J. Rule 2.5, Comment [1]. Comment [2] instructs Judicial Officers to seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities. Pa. Code Jud. Conduct and Pa.R.M.D.J. Rule 2.5, Comment [2].

Becoming familiar with the Court's policy is one of the first steps in determining how Judicial Officers can ethically use such technology. Remaining within the bounds of the policy is an ethical duty unto itself pursuant to Rule 2.5. It is imperative that Judicial Officers do more than be aware of the policy. Judicial Officers should thoroughly read and familiarize themselves with the policy.

Becoming familiar with AI technology is also part of the Judicial Officer's ethical obligation. In its policy, the Court provides definitions concerning this technology that this Board adopts. However, to meet one's ethical duties concerning AI generally and GenAI specifically,

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[5] Hons. Ralph Artiliere and Ralph Losey, *The Future is Now: Why Trial Lawyers and Judges Should Embrace Generative AI Now and How to Do It Safely and Productively*, JDSUPRA, June 27, 2025, https://www.jdsupra.com/legalnews/the-future-is-now-why-trial-lawyers-and-5604683/. Accessed November 25, 2025.

[6] Id.

[7] Id.

[8] Id.

[9] The JEAB acknowledges that the effect of the Comments is unclear. Upon adoption of Canons 1 through 4 and the corresponding Rules, the Supreme Court made no mention of the Comments, although they are published with the Code/Rules. Nonetheless, the JEAB uses the Comments to determine the purpose, meaning, and proper application of the Canons and Rules. This is consistent with the ABA's Revised Model Code of Judicial Conduct (2020).

Judicial Officers must go further than reading a policy and definitions. Judicial Officers are called upon to be competent in carrying out their judicial duties. As previously noted, competency requires a Judicial Officer to possess legal knowledge and skill to perform the functions of the office. While there is no requirement for Judicial Officers to *use* GenAI to perform the functions of the office, the requirement to foundationally *understand* AI/GenAI and how Judges and/or their staff may encounter the technology remains. This technology is or will be used widely by judiciary personnel, members of the bar, and litigants and witnesses who will inevitably appear before Judicial Officers.[10]

As detailed in Comment [2], Judges "should seek the necessary … *expertise*, and *resources* to discharge all adjudicative and administrative responsibilities." Pa. Code Jud. Conduct and Pa.R.M.D.J. Rule 2.5, Comment [2]. Judicial Officers should acquire as much training as possible on the functionality, forms, and uses of AI/GenAI. If a Judicial Officer intends to use GenAI, they must be proficient in the capabilities and limitations of GenAI and be able to use it properly. This General Guidance footnotes many reputable articles by leading experts in GenAI as it relates to the law and Judicial Officers that may prove useful in this endeavor.

Supervisory Duties and Responsibilities

Rule 2.12 (*Supervisory Duties*) requires Judicial Officers to ensure that those under their supervision adhere to the Judge's duties under the Codes. Judicial Officers should ensure that staff under their supervision have the resources and training necessary to gain competence. Staff and Judicial Officers alike must be clear about which GenAI tools are permitted for use by the Court's policy, what information may be entered into these tools, and how Judicial Officers and their staff may need to track their use of GenAI.

The Court's policy notes that Personnel may be required to disclose the use of a GenAI tool in their work product. *See* Section 3(C) of the Supreme Court Order of September 9, 2025. Because Judicial Officers and staff are included in the definition of "Personnel," it is important to be aware of this potential disclosure. While there is no disclosure requirement currently, best practices dictate tracking the use of GenAI in chambers.

Additionally, while AI/GenAI has human-like capabilities, it is not human and does not learn, reason, or analyze as humans do. Thus, there are many limitations on its effectiveness, applicability, and veracity. Much like verifying the work product created by a paralegal, law clerk, other staff, and attorneys, it is incumbent upon Judicial Officers to check the accuracy and veracity of all work product created by GenAI. Furthermore, the Court's policy specifically directs that "humans must review GenAI output and Personnel are responsible for the accuracy of any GenAI information incorporated into their work." *See* Section 4 Commentary of the Supreme Court Order of September 9, 2025.

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[10] As further incentive to gain proficiency with AI/GenAI technology, Comments [3] and [4] of Rule 2.5 may promote Judicial Officers using AI/GenAI to prevent avoidable delay and/or unnecessary costs.

Judicial Discernment and Decision-making

GenAI cannot and should not replace a Judicial Officer's discernment in credibility determinations or judicial decision-making. Canon 1 and Rule 1.2 state that Judicial Officers "shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary." Pa. Code Jud. Conduct and Pa.R.M.D.J. Rule 1.2. Comment [3] of the Rule explains, "Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence." Pa. Code Jud. Conduct and Pa.R.M.D.J. Rule 1.2, Comment [3]. As outlined above, GenAI has serious limitations. While it may be useful to assist in preliminary research or drafting, GenAI cannot substitute for a Judicial Officer's discernment. Using Gen AI in this way would undermine the public's confidence in the judiciary.

Judges as Gatekeepers and Guardians

Judges must oversee their own use of AI/GenAI, as well as their staff's usage. They will also inevitably be tasked, in part, with overseeing attorneys and self-represented parties who use AI/GenAI in litigation. Rule 2.2. (*Impartiality and Fairness*) and Rule 2.6. (*Ensuring the Right to Be Heard*) support the assertion that Judicial Officers must ensure the propriety of AI/GenAI usage in their courtrooms to protect interested parties' rights and to preside fairly and impartially.

Judicial Officers have seen and will continue to see evidentiary challenges concerning GenAI. "AI evidence suffers the same challenges as most scientific evidence does in that the technology on which it is based can be beyond the ken of the judge or jury, so the parties may have to bring in expensive experts to assess and explain it[.]"[11] But there is also a new challenge with GenAI — "deepfakes,"[12] *i.e.*, AI-generated content that is not real. There have always been cases of forgery or other manufactured evidence, but because of the advancement of GenAI, parties will likely need AI forensic experts for identification/authentication rather than using more conventional methods.[13] Judicial Officers will be deciding whether purported deepfake evidence, which has the potential to be highly prejudicial, should be admitted in civil and criminal trials.[14]

This is just one example of the many ways Judicial Officers have encountered or may encounter AI/GenAI. Self-represented litigants and lawyers will likely use AI/GenAI more frequently in court filings and appearances. Recently, in a New York Court, a self-represented plaintiff attempted to use an AI-generated video of a lawyer (called an "avatar") to provide his argument.[15]

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[11] Maura Grossman, *Generative AI and the legal system*, pg. 2-3, Transcript of Interview.

[12] Id.

[13] Id.

[14] Id.

[15] https://www.foxnews.com/us/ai-generated-attorney-outrages-judge-who-scolds-man-over-courtroom-fake-not-real-person. Accessed November 25, 2025.

The Pennsylvania and Philadelphia Bar Associations have jointly issued a formal opinion (Joint Formal Opinion) concerning the use of AI/GenAI by the bar.[16] Much like the Codes, the Rules of Professional Conduct do not specifically address the use of AI/GenAI. The Joint Formal Opinion may serve as guidance to Judicial Officers who are members of the bar and for Judicial Officers who respond to judicial and lawyer misconduct under Rule 2.15 (*Responding to Judicial and Lawyer Misconduct*). The Joint Formal Opinion may also assist Judicial Officers in identifying conduct that violates the Rules of Professional Conduct as it pertains to a lawyer's ethical use of AI/GenAI. However, the Joint Formal Opinion is not binding on the Disciplinary Board of the Supreme Court of Pennsylvania or any other Court.

The cited examples do not fully encompass the myriad ways Judicial Officers will encounter GenAI in their courtrooms. AI/GenAI has and will continue to appear in many forms and functions that this Board cannot predict or fathom. For this reason, the ethical obligation of Judicial Officers to be competent (and, preferably, proficient) in this technology is paramount.

Conclusion

As the world grapples with the extraordinary pace of AI and GenAI development – its rapid evolution, expanding reach, and ever-accelerating capabilities – the legal profession must remain vigilant, adaptive, and ethically grounded. Nowhere is this obligation more critical than within the judiciary. Judicial Officers, as the most public-facing guardians of the rule of law, are uniquely situated at the point where emerging technology collides with fundamental principles of fairness, impartiality, and due process. Courts already confront digital evidence generated or influenced by AI, litigants who rely on AI tools to prepare filings, and the systemic risks of misinformation, deepfakes, and automated content used to mislead or harass. These realities are not speculative; they are present, growing, and altering the very fabric of how parties interact with the legal system. Against this backdrop, judicial competence is not simply an aspirational ideal but an ethical mandate. The duty to remain competent has always required judges to keep pace with changes in law and society, but the emergence of AI demands an elevated, ongoing form of attentiveness: understanding how AI tools work at a basic level, recognizing where their weaknesses or biases may influence proceedings, evaluating the reliability of AI-generated evidence, and being able to identify when litigants or attorneys are inappropriately relying on—or misusing—these technologies. Judicial Officers need not become technologists, but they must cultivate enough literacy to ask the right questions, perceive the relevant risks, and apply existing legal standards to novel circumstances in ways that preserve public confidence in the courts.

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[16] *Ethical Issues Regarding the Use of Artificial Intelligence*, Pennsylvania Bar Association Committee on Legal Ethics and Professional Responsibility and Philadelphia Bar Association Professional Guidance Committee Joint Formal Opinion 2024-200.
https://www.pabar.org/Members/catalogs/Ethics%20Opinions/Formal/Joint%20Formal%20Opinion%202024-200.pdf. Accessed December 8, 2025.

The ethical responsibility of Judicial Officers extends beyond simple familiarity with these tools; it implicates their core duties of independence, integrity, and impartiality. As AI becomes embedded in everyday practice, judges must be alert to the possibility that algorithmic recommendations may appear authoritative even when they lack transparency or reliability. They must guard against any erosion of decision-making autonomy, ensuring that human judgment, not automated suggestion, remains the true arbiter of justice. They must also consider how AI affects access to justice: while GenAI tools have the potential to empower self-represented litigants, streamline filings, and reduce burdens on court staff, they also introduce disparities for those without technological access or literacy. Therefore, competence encompasses not only understanding how AI assists the courts but also how it may disadvantage individuals who lack equitable access to these emerging resources.

Ultimately, as technology continues to reshape the contours of modern life, the judiciary must reaffirm its commitment to principled adaptation. The public looks to Judicial Officers as models of thoughtful, informed leadership – figures who can navigate complex societal changes without compromising the impartiality and dignity of the judicial role. By embracing the ethical duty to remain competent in the age of AI, judges strengthen the integrity of the judicial process and uphold the promise that courts will continue to deliver justice grounded in reason, fairness, and human judgment. The challenges posed by AI/GenAI are profound, but so too are the opportunities for courts to demonstrate resilience, insight, and foresight. Judicial competence in this realm is not merely about keeping up with technological change; it is about safeguarding the legitimacy of the justice system itself and ensuring that, even as tools evolve, the rule of law remains steady, trustworthy, and fundamentally human.

Please remember:

- Only use AI/GenAI if you have been adequately educated about the technology.
- Do not avoid or delay training/learning about AI/GenAI.
- Acquire the necessary skills and expertise to achieve the "competence" required by ethics rules.
- Require staff to use AI/GenAI within the confines of the Court's policy and only allow its use to the extent you can provide sufficient oversight.
- Always provide human verification/authentication of GenAI outputs.

GENERATIVE ARTIFICIAL INTELLIGENCE IS AN EVOLVING TECHNOLOGY, AND, AS A RESULT, THE FOREGOING IS SUBJECT TO CHANGE AS DOES TECHNOLOGY. FOR FORMAL GUIDANCE ON THE USE OF GENERATIVE AI OR ANY OTHER ISSUE OF JUDICIAL ETHICS, CONSULTATION WITH THE BOARD IS REQUIRED.

END OF GENERAL ETHICS GUIDANCE NO. 2-2025