Policy for the Acceptable Use of Artificial Intelligence (AI) Tools and Platforms

I. Purpose

The emergence of generative artificial intelligence (AI) tools and platforms has prompted the Maryland Judiciary to develop a policy for the acceptable use of AI by Judiciary personnel. This policy establishes clear guidelines for the use of Generative AI-powered tools and reinforces the Judiciary's commitment to fairness, accountability, transparency, security, and confidentiality. This policy is intended to evolve with technological advancements, operational necessities, changes in legislation, and public policy.

II. Scope

This policy applies to all persons employed by a court, unit, or judicial entity organized within the Maryland Judiciary, including regular, temporary, and contractual employees, regardless of the source of the employee's compensation (e.g., county, state, federal, grant) when using Generative AI for Judiciary business. Additionally, this policy applies to all functions performed on Judiciary-owned electronic devices, and to all Judiciary-related work performed on any device.

III. Authority

The Chief Justice of the Supreme Court of Maryland is the establishing authority for this policy with the advice and guidance of the Judicial Council and Judicial Information Systems.

The Chief Justice of the Supreme Court of Maryland has the authority to exempt a category of users from any requirement of this policy.

IV. Definitions

"Administrative Head" means:

A. For the Supreme Court of Maryland, the Clerk of the Court for all employees under the Clerk's supervision and the Chief Justice for all other employees of that Court;
B. For the Appellate Court of Maryland, the Clerk of the Court for all employees under the Clerk's supervision and the Chief Judge for all other employees of that Court;
C. The Clerk of the Circuit Court for all employees under the Clerk's supervision;

D. The County Administrative Judge for all employees under the supervision of the Administrative Judge;
E. For the District Court, the Chief Judge of the District Court, the Chief Clerk, the Administrative Clerk, or Administrative Commissioner for all employees under their supervision;
F. For the Administrative Office of the Courts, the State Court Administrator;
G. For units organized within the Judicial Branch, the head of the unit where the employee works; and,
H. Any person who, by express written designation, serves as the authorized designee of an Administrative Head.

"AI" is a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments. Artificial intelligence systems use machine- and human-based inputs to perceive real and virtual environments; abstract such perceptions into models through analysis in an automated manner; and use model inference to formulate options for information or action.

"Employee" or "employees" includes any person employed by the Maryland Judiciary and paid through the Central Payroll Bureau of the Comptroller, or employed by a unit or a judicial entity, including justices, judges, magistrates, Clerks of Court, and elected officials. This includes employees regardless of their compensation source, whether county, state, federal, regular, temporary, contractual, or grant-funded.

"Generative AI" refers to AI algorithms and models that can create new content, including audio, code, images, text, and video, based on the data they are trained on.

"JHRD" refers to the Judiciary Human Resources Division within the Administrative Office of the Courts.

"JIS" refers to the Judicial Information Systems Division within the Administrative Office of the Courts.

"Judiciary Owned Electronic Device" refers to any laptop, tablet, smart phone, or external hard drive (but not including a USB thumb drive) owned by the Maryland Judiciary and issued to an employee or covered person.

"Judicial Entity" refers to the Supreme Court of Maryland; the Appellate Court of Maryland; a circuit court or any department thereof; the District Court of Maryland or any department thereof; the Administrative Office of the Courts (AOC) or any department thereof; or a unit of the Judiciary.

"Unit" refers to The Attorney Grievance Commission, The Client Protection Fund, the State Board of Law Examiners, The Thurgood Marshall State Law Library, The Commission on

Judicial Disabilities, and The Supreme Court of Maryland Standing Committee on Rules of Practice and Procedure.

V. Principles

Accountability, Safety, and Security: Generative AI shall be used responsibly, in a way that minimizes potential harm and promotes the security of confidential and sensitive data as well as personally identifiable information (PII).

Fairness and Inclusion: Generative AI shall be used in a way that promotes equitable treatment of diverse users and people in the communities served.

Innovation and Sustainability: Generative AI shall be used in a way that aligns with the Judiciary's commitment to fair, efficient, and effective justice for all.

Validity and Reliability: Human oversight and rigorous evaluation of Generative AI outputs will be performed in all instances to ensure that those outputs are valid and reliable.

VI. Authorization and Use of Generative AI tools

Employees are authorized to use Generative AI for work only as set forth in this policy.

Any such use shall comply with all legal and ethical standards, as applicable. These include:

- the Maryland Attorneys' Rules of Professional Conduct;
- the Maryland Code of Judicial Conduct;
- the Maryland Code of Conduct for Judicial Appointees;
- the Policy on the Standards of Conduct; and
- the Maryland Code of Conduct for Court Interpreters.

Employees may use or install only the Generative AI tools approved by the Judiciary. *See* Appendix A. The preference under this policy is for employees to use the Judiciary's Artificial Intelligence Digital Assistant (AIDA) in the first instance for uses supported by AIDA. This preference does not preclude or otherwise limit employees from using externally available Generative AI tools or platforms when convenient or as necessary, provided that such Generative AI tools or platforms have received Judiciary approval.

Judiciary approval means that JIS has determined that a Generative AI tool or platform is safe to use from a technological perspective. Approval does not mean that a Generative AI tool or platform is free from all risks, including risks relating to confidentiality and privacy, and risks that the generated content may be inaccurate, copyrighted, or biased.

In addition to JIS approval, employees shall obtain approval from their immediate supervisor before using Generative AI tools or platforms and take any education classes required by their immediate supervisor. Immediate supervisors must take reasonable steps

to become aware and maintain awareness of how employees under their supervision are using Generative AI tools or platforms.

If an employee wishes to use a Generative AI tool or platform that is not included on the approved list, the employee must first submit a request for approval to their Administrative Head. The Administrative Head will review the request and, if appropriate, submit it to JIS through ServiceNow for evaluation and approval. Employees may not access or use any unapproved Generative AI tool or platform until formal approval has been granted by JIS.

All employees must use their work email or Judiciary Microsoft Office accounts to use the approved AI tools for Judiciary-related matters. Judiciary-related AI accounts shall not be used for personal matters.

VII. User Responsibilities

All employees using Generative AI tools are responsible for:

- Understanding and adhering to this policy and any additional guidance that may be issued;
- Ensuring the completeness and accuracy of any Generative AI created content before using it for any purpose;
- Obtaining approval from an immediate supervisor prior to the use of Generative AI tools or platforms, and disclosing the use of such tools and platforms to their supervisors;
- Protecting confidential, proprietary, and sensitive information;
- Refraining from use of any Generative AI tool or platform, or any content produced by such a tool or platform, in a manner that would violate applicable ethical standards;
- Understanding the terms of service of any Generative AI platform they use and ensuring that appropriate privacy settings are selected; and
- Participating in required training sessions.

Employees shall not put confidential, sensitive, PII, or other nonpublic information in AI chat prompts, including the Judiciary approved commercially available AI tools and platforms (i.e. all approved platforms, except AIDA). Once information is inputted into a third-party (non-Judiciary) Generative AI platform, it is no longer under Judiciary control and may become publicly available. Prior to uploading any document for AI-assisted summarization, users must verify that the content does not include confidential, sensitive, or otherwise nonpublic data or PII. Even when using AIDA, employees should generally avoid putting PII into chat prompts.

System developers shall not post custom or proprietary code into chat prompts. They should, instead, review the system code provided by AI searches thoroughly to confirm that it is free of errors and will not introduce malicious content into Judiciary assets.

Non-system developers shall not use Generative AI to write computer code.

Employees shall use strong passwords when using AI platforms and avoid sharing passwords with others. Employees may refer to the Judiciary's password guidelines when creating passwords for AI platforms and must never re-use a password that was once used for another AI platform. For guidance generating a password, refer to Section 7.4 of the Information Security Policy and the JIS Password Construction Guidance.

VIII. Compliance with Related Policies, Agreements, and Laws

Generative AI usage must comply with applicable local, state, and federal laws, as well as the Judiciary's internal policies. This includes but is not limited to:

- Data protection and privacy laws;
- Open records and public access laws;
- Contractual obligations with software vendors;
- Acceptable use and information security policies;
- Judiciary Confidentiality Agreements or At-Will Agreements; and
- Codes of conduct and professional responsibility.

There are no guarantees on how information entered into AI platforms will be used or shared to improve searches or other activities. Employees should assume that all information entered in a third-party AI platform will immediately become public.

Employees must fact check and review all content generated by AI to ensure its accuracy. Generative AI systems "hallucinate," meaning that they can generate inaccurate or fictitious content. Even content a user uploads to a Generative AI system may be altered by the system in any response it provides incorporating that content. *All* Generative AI-generated output must be verified by a qualified human.

Copyrighted material can be provided as part of generated responses without proper copyright permissions. Employees must perform due diligence to ensure that no copyrighted material is used in published work product without proper attribution or permissions.

Employees shall exercise discretion and good judgment when submitting queries and/or uploading information to the AI prompt, and when sharing AI generated information publicly.

AI systems may be trained on material that reflects cultural, economic, and social biases, and content generated as a result may contain unintended or undesirable instances of bias, or potentially offensive or harmful material. It is critical to ensure that any such bias and material not be reflected in any Judiciary work product.

Members of the public may request production of Judiciary records under the Maryland Rules and, therefore, some uses of Generative AI may become a matter of public record.

The use of Generative AI by Judiciary employees may implicate Section 3, "Standards of Conduct and Performance," of the Judiciary Employee Handbook.

IX. Permissible and Impermissible Uses

Provided that an employee complies with all of the above guidelines, permissible uses of Generative AI tools include, but are not limited to:

1. Drafting, summarizing, and revising documents, provided no element of decision-making is delegated to the Generative AI tool;
2. Conducting legal research, provided the AI tool used is trained on a comprehensive, up-to-date collection of reputable legal authorities and the authenticity of all authorities is confirmed by a human before being used;
3. Assisting with routine responses to non-sensitive inquiries;
4. Supporting brainstorming and ideation; and
5. Translating documents, converting handwritten text to typewritten text, adjusting the tone or reading level of a written document, or simplifying complex text.

Employees shall not use Generative AI to:

1. Generate content involving PII or other confidential data;
2. Make decisions that could affect a person's rights;
3. Create or spread misinformation;
4. Replace professional judgment or generate legal advice; or
5. Create, deploy, or execute AI generated custom code, scripts, agents, applications or automated processes on Judiciary networks, web applications or systems.

X. Policy Enforcement

Any violation of this policy shall be reported to: (1) an employee's immediate supervisor; (2) JIS, through ServiceNow, to evaluate the need for immediate corrective action; and/or (3) JHRD for submission to the Compliance Subgroup of the AI Governance Subcommittee for evaluation and recommended corrective action commensurate with the violation.

Violations of this policy may result in corrective action, which may include:

1. Instructional communication to the employee, such as a counseling session, a memorandum of instruction, or an oral or written warning;
2. Retraining on technology and data policies;
3. Revocation of access to Generative AI tools; or
4. Referral for further investigation to the appropriate disciplinary unit.

A recommended disciplinary action from the Compliance Subgroup and/or the AI Governance Subcommittee must be submitted to JHRD.

XI. Word of Caution

All employees must take great care when entering content into Generative AI tools or platforms as all information uploaded into a tool or platform, or generated by the tool or platform, is available to that tool or platform's employees, developers, learners, and others.

When using a JIS-approved Generative AI tool or platform, it remains the obligation of the employee to ensure that the information contained in the employee's work product is accurate, complies with all applicable laws and regulations (including copyright laws), contains proper cited attribution, and does not contain material that reflects unintended and/or undesirable bias.

There are currently no agreements between the Judiciary and any AI platform that would provide data security and privacy protections in connection with the use of the Generative AI tools or platforms. The use of Generative AI tools or platforms could expose individual users to potential loss and/or abuse of PII and other confidential or sensitive information when the above guidelines are not followed.

Any questions or concerns may be directed to an employee's immediate supervisor, JIS, and/or the AI Governance Subcommittee.

XII. Interpretative Authority

The AI Governance Subcommittee, in consultation with other parties, as appropriate, is responsible for the interpretation of this policy.

Appendix A – Approved AI Tools and Platforms

Below is a list of Generative AI platforms currently approved by the Judiciary. These platforms are designed to follow a set of internal guidelines to ensure that the platforms use reliable sources and information in generating responses. Generative responses are based on extensive training data and models created and maintained by the AI platforms. Although the platforms listed below claim that they maintain standards of quality, accuracy, and reliability in their responses, discrepancies and disinformation may still exist. As always, use care and good judgment and follow the Policy for the Acceptable Use of AI Tools and Platforms when using these platforms. Please refer to this list regularly as it is subject to change.

Only AI Tool permitted for any sensitive or confidential tasks:

- AIDA

Approved Third Party AI Tools:

- Open AI – ChatGPT
- Anthropic – Claude
- Microsoft – Copilot
- Google – Gemini