

Use of Artificial Intelligence

1. Purpose

- a. This policy covers the use of artificial intelligence (AI) by any employee, contractor or agent for the North Dakota Commission on Legal Counsel for Indigents.

2. Scope

- a. It applies to AI tools used in the performance of duties on behalf of clients and the office. This policy is intended to support innovation while safeguarding confidentiality, due process, the attorney-client privilege, and the ethical responsibilities of the Agency.

3. Definitions

- a. Artificial Intelligence (AI):
 - i. AI involves computer technology, software, and systems that, through human input or instructions, perform tasks traditionally requiring human intelligence.
- b. Generative Artificial Intelligence (GenAI)
 - i. AI that creates various types of new content, including text, images, audio, video, and software code in response to a user's prompts and questions. This includes tools that serve as prediction tools which generate a statistically probable output when prompted, either within a closed or open-source environment, whether they are self-learning or not.
- c. Open-Box AI Model
 - i. Is an AI model that the user inputs or outputs may be stored, retained, reused, or incorporated into model training, analytics, or third-party services outside the control of the user.
- d. Closed-Box AI Model
 - i. Is an AI model that the user inputs or outputs are controlled by the user which does not retain, reuse, or incorporate user inputs or outputs for model training

or third-party purposes and provides data handling protections consistent with court confidentiality, security, and records requirements.

4. Policy Statement

- a. This policy does not intend to replace attorney judgment for machine judgment. All people covered by this policy need to use AI in competent matters while also safeguarding client confidentiality.

5. Generally Acceptable Use Standard:

All employees, contractors, or agents must adhere to the following general principles when using AI:

- Professional Judgment: AI may be used to assist, but not replace, legal reasoning or decision-making. Attorneys remain solely responsible for all legal advice and work product.
- Ethical Compliance: Use of AI must comply with the Rules of Professional Conduct, including duties of competence, confidentiality, candor, supervision, and avoidance of bias or discrimination. Users must remain vigilant in avoiding misuse of or overreliance on AI that could compromise ethical obligations.
- Data Confidentiality: AI tools may only be used with data that is appropriately secured, anonymized, or subject to client consent, as applicable.
- Accuracy and Verification: AI outputs must be reviewed, validated, and corrected as necessary before being used or shared.

6. Prohibited Uses

AI tools must not be used for:

- Generating legal advice or filings without attorney review.
- Processing, sharing, or entering confidential client data (any non-publicly available, privileged, or personally identifying) into Open-Box models.
- AI generated advice or predictive outcomes without appropriate disclaimers.
- AI generated work product without professional verification or oversight.
- Any use that may violate local, state, federal laws, or Court Orders or professional ethical rules.

7. Enforcement

- a. Any violations or misuse of AI should be reported to the employee's direct supervisor or the deputy director for contractors. Failure to comply with the policy may lead to discipline, up to termination of position or contract.

Preliminarily Approved by the Commission on September 9, 2026.