

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE: §
INTERIM POLICY ON THE USE OF §
GENERATIVE AI BY JUDICIAL §
OFFICERS AND COURT PERSONNEL §

ORDER

This 21st day of October 2024, it appears to the Court that:

WHEREAS, in 2013, the Court established the Delaware Commission on Law and Technology (“DCLT”) to provide Delaware lawyers with guidance and education when using technology in the practice of law;

WHEREAS, in 2023, the Court expanded the mission of the DCLT to assess developing technology and to identify critical needs and gaps;

WHEREAS, the DCLT has recommended adoption of the attached interim policy for the use of Generative Artificial Intelligence (“GenAI”) by judicial officers and court personnel;

WHEREAS, the Interim Policy is intended to ensure the safe and appropriate use of GenAI by judicial officers and court personnel, but not be used as a substitute for judicial, legal, or professional expertise.

NOW, THEREFORE, IT IS ORDERED that:

1. Judicial officers and court personnel using GenAI in their official duties shall comply with the Interim Policy on the Use of Gen AI Policy by Judicial Officers and Court Personnel (“the Interim Policy”), attached

as Exhibit A.

2. The Interim Policy shall be added as Appendix O-1 to the Judicial Branch Operating Procedures, available at <https://courts.delaware.gov/aoc/operating-procedures/index.aspx>.
3. The DCLT shall monitor the Interim Policy and report to the Court when further changes are needed.
4. The Interim Policy shall go into effect on October 21, 2024.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice

EXHIBIT A

Interim Policy on the Use of GenAI by Judicial Officers and Court Personnel

Purpose:

This Interim Policy on the Use of GenAI by Judicial Officers and Court Personnel (this “Interim Policy”), reviewed and approved by the Delaware Commission on Law and Technology, is offered for consideration by the Chief Justice of the Delaware Supreme Court as the Administrative Head of all Delaware Courts. This Interim Policy is intended to ensure the safe and appropriate use of GenAI by Authorized Users. Generative AI tools are intended to provide assistance and are not a substitute for judicial, legal or other professional expertise.

Scope:

This Interim Policy applies to the use of GenAI by Authorized Users in the course and scope of their official duties and on State Technology Resources.

Definitions:

“Approved GenAI” means GenAI tools that have been approved by the Administrative Office for use by Authorized Users in the performance of their duties and using State Technology Resources.

“Artificial Intelligence” or “AI” means technology that enables computers and machines to reason, learn, and act in a way that would typically require human intelligence.

“Authorized Users” means all judicial branch judicial officers, employees, law clerks, interns, externs, and volunteers.

“Generative AI” or “GenAI” means Artificial Intelligence trained on an existing set of data (which can include text, images, audio or video) with the intent to "generate" new data objects when prompted by a user. Generative AI creates new data objects contextually in response to user prompts based only on the data it has already been trained on.

“Non-Public Information” means information to which an Authorized User has access to as a result of their official position and not otherwise publicly available through action of the Authorized User.

“Non-Approved GenAI” means GenAI that is not Approved GenAI.

“State Technology Resources” include any and all computer systems, software, network systems, telecommunications equipment and systems, email and messaging systems, data storage, hardware, peripherals and other electronic systems and devices owned, leased, and/or provided by the State of Delaware.

Policy:

1. **Authorized User Remains Responsible.** Any use of GenAI output is ultimately the responsibility of the Authorized User. Authorized Users are responsible to ensure the accuracy of all work product and must use caution when relying on the output of GenAI.

2. **Informed Use.** Authorized Users should not use Approved GenAI without a working knowledge and understanding of the tools. Authorized Users should be trained in the technical capabilities and limitations of Approved GenAI prior to use.
3. **Decision Making.** Authorized Users may not delegate their decision-making function to Approved GenAI.
4. **Compliance with Laws and Judicial Branch Policies.** Use of GenAI must comply with all applicable laws and judicial branch policies.
5. **Non-Approved GenAI.** Authorized Users may not input any Non-Public Information into Non-Approved GenAI. Non-Approved GenAI may not be used on State Technology Resources.