

The Supreme Court of South Carolina

Re: Interim Policy on the Use of Generative Artificial
Intelligence

Appellate Case No. 2025-000043

ORDER

In response to the increasing use of artificial intelligence systems in legal research and applications, and in recognition of the potential benefits and risks in utilizing this new technology within the South Carolina Judicial Branch, I find it necessary to issue this Interim Policy regarding the appropriate use and limitations on the use of generative artificial intelligence tools and systems by the judiciary and court personnel. This policy seeks to ensure the responsible and secure integration of these technologies into the judiciary, while safeguarding the integrity of judicial proceedings and protecting the privacy and rights of parties and others involved in matters in all courts in the Unified Judicial System.

(a) Application. This Interim Policy applies to all Judicial Officers and Employees of the South Carolina Judicial Branch. Judicial Officers and Employees includes Justices, judges, attorneys, law clerks, administrative assistants, interns, externs, temporary employees, paralegals, and all other employees or volunteers within the Branch regardless of whether they are compensated by state or local funds, including information technology professionals.

(b) Definitions.

(1) "Artificial Intelligence" or "AI" refers to technologies or software that enable computers and machines to perform tasks that typically require human intelligence. These tasks include, but are not limited to, natural language processing, predictive analytics, and machine learning.

(2) "Generative AI" refers to AI tools capable of creating new content or data, such as text, images, audio, video, or code, based on user prompts. Generated or created content may be comparative to what a human creator produces and can include text consisting of entire narratives of naturally

reading sentences. Examples of these programs include, but are not limited to, ChatGPT, Microsoft 365 Copilot, Grok, Gemini, Meta Chat, and Westlaw's AI-Assisted Research and/or CoCounsel.

(c) Use of Generative AI by Judicial Branch Officers and Employees.

(1) Generative AI has the potential to enhance productivity by assisting with various tasks, including drafting documents, editing text, generating ideas, and developing software. However, the use of Generative AI to perform these tasks creates potential risks. These risks include that generated content may contain inaccuracies, bias, cybersecurity vulnerabilities, and unauthorized use of intellectual property. Content created by Generative AI and the public availability of information submitted to an AI program may also pose security or privacy concerns.

(2) Judicial Branch Officers and Employees may only use Generative AI tools and systems in the performance of their Judicial Branch duties that are approved by the Supreme Court or South Carolina Court Administration.¹ Notwithstanding any general approval, supervising justices, judges, lawyers, and information technology professionals retain the authority to limit or prohibit the use of approved Generative AI tools by lawyer and nonlawyer employees under their supervision.

(3) Any Generative AI tools or systems used in the performance of Judicial Branch duties may only be accessed using approved devices. Judicial Officers and Employees may not circumvent this rule by using Generative AI on personal devices or systems.

(4) Judicial Branch Officers and Employees may not use Generative AI to draft memoranda, orders, opinions, or other documents without direct human oversight and approval. Generative AI tools are intended to provide assistance and are not a substitute for judicial, legal, or other professional expertise. As such, content from Generative AI may not be used verbatim;

¹ Generative AI tools and systems that are procured, purchased, or otherwise made available to Judicial Branch Officers and Employees by the Branch are deemed approved for use. Judicial Branch Officers and Employees who have questions about specific tools and systems should contact South Carolina Court Administration.

be assumed to be truthful, reliable, or accurate; be treated as the sole source of reference; or be solely relied on in making final decisions.

(5) In addition to assisting Judicial Officers and Employees in legal matters, Generative AI may be used to create or modify software code. Such use may only be permitted after identification and mitigation of business and security risks related to its use. All software code generated by Generative AI must be documented.

(6) Neither AI nor Generative AI tools and systems may be used to process or analyze confidential court records or privileged information or communications unless expressly authorized and in compliance with all applicable rules and policies, including the Judicial Branch Acceptable Use Policy and the Information Security Governing Policy, as well as any similar applicable policies established by other South Carolina governmental entities.

(7) The South Carolina Judicial Branch will develop training programs to educate Judicial Officers and Employees on the proper and improper use of AI and Generative AI.

(8) Judicial Officers and Employees are subject to appropriate corrective action, including disciplinary measures when justified, to remedy any violations of this Interim Policy.

(d) Use of AI by Lawyers and Litigants in Matters.

(1) While this Interim Policy does not specifically address the use of Generative AI by lawyers and litigants, lawyers and litigants are reminded that they are responsible to ensure the accuracy of all work product and must use caution when relying on any output of Generative AI.

(2) Lawyers in particular must ensure that the use Generative AI does not compromise client confidentiality or otherwise violate the South Carolina Rules of Professional Conduct, Rule 407, SCACR.

(e) Ongoing Evaluation and Future Policy Development. This Interim Policy shall remain in effect until further Order of the Chief Justice or the Supreme Court.

s/John W. Kittredge

John W. Kittredge

Chief Justice of South Carolina

March 25, 2025

Columbia, South Carolina