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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

MAY 26 2022

IN AND FOR THE COUNTY OF MOHAVE

CHRISTINA SPURLOCK  
CLERK SUPERIOR COURT  
BY: [Signature] DEPUTY

IN THE MATTER OF: )  
 )  
REVISIONS TO SUPERIOR COURT )  
POLICY AND PROCEDURE 1.02 )  
DISCRIMINATION AND HARASSMENT )  
PROHIBITED )

ADMINISTRATIVE ORDER  
2022-19

WHEREAS, the Superior Court may revise or rescind the Superior Court's Judicial Merit Rules or Superior Court Policies and Procedures as needed;

WHEREAS, it is the desire of the Superior Court to clarify the complaint reporting and investigation process for employees that report to the Presiding Judge;

IT IS ORDERED, that the attached Superior Court Policy and Procedure 1.02 Discrimination and Harassment Prohibited be adopted this date.

DATED 26<sup>th</sup> day of May 2022.

[Signature]  
Steven C. Moss, Presiding Judge  
Mohave County Superior Court

Original filed with the Clerk of the Superior Court in Mohave County

- A. PURPOSE:** Is to establish and define the Court's policy on illegal discrimination and harassment, and to establish a mechanism through which employees may seek relief from harassing behavior. This policy is also intended to unequivocally establish the Court's opposition to and disapproval of prohibited behaviors falling under its purview. The Court prohibits discrimination, including harassment and retaliation, based on race, color, sex, gender, sexual orientation, age, national origin, ethnicity, disability, political or religious affiliation, veteran's status, genetic information, marital status, socioeconomic status, or any category protected by Federal or State law (these categories are collectively referred to in this policy as "Protected Class").
- B. POLICY OVERVIEW:** All Judicial employees, Division Heads and elected officials, have a right to work in an environment free from discrimination and harassment.
- C. COVERAGE:** This policy shall be effective for all Judicial employees, Division Heads and elected officials, without regard to status or affiliation and shall supersede all existing policies and procedures for courts currently in place in Mohave County. This policy shall supplement provisions in Supreme Court Administrative Order 2018-65 which defines the Arizona Judiciary Discrimination and Harassment Policy.

**D. DEFINITIONS:**

**DISCRIMINATION:** is differing treatment of an individual, involving any term or condition of employment, based on that individual's membership in a Protected Class.

**DIVISION HEAD:** is an elected official, the Court Administrator, Chief Probation Officer, or the Director of Juvenile Court Services.

**HARASSMENT:** is a form of discrimination. It is unwelcome conduct, verbal or physical conduct or any form of communication, that is directed at an individual because of his or her membership in a Protected Class and that is severe or pervasive to create a work environment that is intimidating, hostile, or offensive to a reasonable person.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

1. Verbal harassment includes offensive or unwelcome comments regarding a person's appearance, epithets, slurs, and negative stereotyping related to a person's membership in a Protected Class.
2. Nonverbal harassment includes distribution, display, or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of his or her membership in a Protected Class.

**SEXUAL HARASSMENT:** is any unwelcome sexual advance, request for sexual favor, and/or other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and/or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

1. Unwelcome or unwanted sexual advances including patting, pinching, brushing up against, hugging, cornering, kissing, fondling, or any physical conduct.
2. Unwelcome or unwanted requests or demands for sexual favors, including subtle or blatant expectations, pressures, or requests for any type of sexual favor in exchange for or accompanied by an expressed, or implied threat or promise of a benefit related to one's employment.
3. Unwelcome verbal abuse, bantering or teasing that is of a sexual nature. This includes offensive innuendoes, jokes, and comments of a sexual nature.
4. Displaying an intimidating, hostile, or offensive attitude because of rejected sexually oriented demands, requests, physical contact, or attention.
5. Interfering with a co-worker's performance by giving unwanted sexual attention, or sexually oriented conduct that reduces personal productivity or safety.
6. Condoning a work environment that is not free of sexually oriented or offensive innuendoes.
7. Distributing, displaying, or discussing any written or graphic material that is offensive and sexual in nature and/or shows hostility toward an individual or group because of sex, including calendars, posters, cartoons, letters, notes, facsimiles, e-mails, photos, text messages, tweets, Internet postings, or other forms of communication.

**RETALIATION:** is an adverse employment action taken against an individual because they engage in protected activity or to deter an individual from engaging in protected activity. Protected activity consists of: (1) opposing conduct reasonably believed to constitute discrimination, including harassment, which violates a nondiscrimination statute, or this court policy; (2) reporting such conduct; or (3) testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination complaint.

- E. COMPLAINT PROCEDURE:** Any perceived discrimination, harassment, or retaliation shall be reported. Any person may file a complaint alleging discrimination, harassment, or retaliation. Classified employees who use the complaint procedure in this section regarding allegations of discrimination, harassment, or retaliation are precluded from using the Superior Court's grievance procedure for the same allegations or for a disciplinary action

that the employee alleged in the complaint was related to the allegations of discrimination, harassment, or retaliation.

1. Persons alleging to have been subjected to discrimination, harassment, or retaliation, or who have personal knowledge of discrimination, harassment, or retaliation during the course of their employment with the Court shall submit a signed complaint form to their immediate supervisor, Division Head or the Presiding Judge, describing the events and/or actions leading up to the filing of the form.
2. The completed form shall contain the location of the incident, the name of the individual whose behavior is alleged to have constituted discrimination, harassment or retaliation, names of individuals who were witnesses of the alleged incident, and any other information which provides understanding of the incident or action giving rise to the complaint.
3. The person receiving the report shall document the report and forward the documentation to the Division Head. If the complaint is about a Division Head the complaint shall be forwarded to the Court Administrator. If the complaint is from an employee that reports to the Presiding Judge the complaint shall be forwarded to the Presiding Judge. The Presiding Judge shall designate an individual to investigate the matter. The designee shall issue a written determination at the conclusion of the investigation as outlined in E4 below. The Division Head shall promptly, impartially, and thoroughly investigate as appropriate the charges cited in the complaint and interview such individuals as necessary to gain an understanding of the incident giving rise to the complaint.
4. If upon review a basis is found for the complaint, the Division Head shall issue a written determination in this regard including a finding as to whether the alleged conduct occurred and if so, whether it constituted a violation of this policy. The written determination shall be forwarded to the subject's supervisor with a recommendation as to how the problem should be resolved. The Division Head shall also provide copies of the written determination to the Presiding Judge, the person who filed the complaint, the subject of the report, and any other persons involved in the investigation as deemed appropriate.
5. Upon receipt of the determination, the supervisor shall adopt a course of action consistent with this recommendation which seeks to resolve the matter in an effort to eliminate the likelihood that the incident giving rise to the complaint will be repeated in the future.
6. If no basis is found for a complaint of discrimination, harassment or retaliation, the person alleging to have been subjected to discrimination, harassment, or retaliation shall be so notified in writing by the Division Head. A person filing a complaint who receives notice that no basis has been determined for the complaint may disagree with the finding of no cause and request review of the matter by the Presiding Judge within seven (7) working days of the notice.

- F. **DISCIPLINE:** Any person found to have subjected an individual to any form of discrimination, harassment, or retaliation shall be subject to disciplinary action up to and including dismissal.

**G. CONFIDENTIALITY:**

1. Reasonable efforts will be made to maintain the confidentiality of investigative actions. However, confidentiality is not assured for any party to a complaint or investigation.
2. Information concerning discrimination, harassment, or retaliation discussed pursuant to this policy shall not be disclosed to anyone not involved with the investigation.
3. All employees who are contacted regarding a discrimination, harassment, or retaliation complaint or report shall maintain the confidentiality of the complaint or report and all matters discussed related to the complaint or report.

**H. RECORDS AND FILES:** All documentation relative to discrimination, harassment, or retaliation investigations shall be maintained by the Division Head in accordance with the Arizona Code of Judicial Administration §3-402: Superior Court Records Retention and Disposition Schedule in separate and confidential files. After this period, these documents may be destroyed unless Superior Court Human Resources has been notified that a discrimination action has been filed with the EEOC or that litigation has been initiated or Superior Court Human Resources otherwise determines to retain the record for a greater period of time.

**I. RESPONSIBILITY:**

1. Persons who believe that they have been subjected to discrimination, harassment, or retaliation as defined in this policy shall make their supervisor, Division Head, or the Presiding Judge aware of such alleged harassment.
2. The Division Head shall enforce provisions of this policy and in the event of a complaint, promptly, impartially, and thoroughly investigate it in a fair and, to the extent possible, confidential manner.
3. Any form of retaliation by person(s) against any complaining person, participating witness, and/or person cooperating in an investigation will not be tolerated and shall be grounds for disciplinary action, up to and including dismissal.
4. All designated persons in authority in the Judicial service shall be responsible for ensuring compliance and enforcement of this policy within their respective court or division.

**J. DISCRIMINATION, HARASSMENT OR RETALIATION BY JUDGES OR SPECIAL JUDICIAL OFFICERS:** Discrimination, harassment, or retaliation by Judges against any person shall be grounds for filing a complaint to the Arizona Commission on Judicial Conduct pursuant to commission rules and procedures. The Presiding Judge shall ensure that alleged discrimination, harassment, or retaliation charges against Judges are appropriately referred to the Commission according to commission rules. Discrimination, harassment, or retaliation by special Judicial officers shall be grounds for disciplinary action up to and including dismissal or termination of contractual agreements.

- K. SEXUAL HARASSMENT BY VENDORS:** Sexual harassment by vendors shall be grounds for termination of vendor contracts.
- L. NON-RETALIATION:** Any form of retaliation by person(s) against any complaining person, participating witness, and/or person cooperating in an investigation will not be tolerated and shall be grounds for disciplinary action, up to and including dismissal.
- M. FALSE ACCUSATIONS:** Any person who knowingly or recklessly makes a false and malicious accusation of harassment, discrimination or retaliation against any person shall be subject to disciplinary action up to and including dismissal.
- N. NOTICE OF POLICY:** Superior Court Human Resources shall ensure that all Judges and Judicial employees are informed of and receive a copy of this policy. The Presiding Judge or designee in each Mohave County court location shall post this policy in a common area to ensure proper notice and distribution.
- O. EDUCATION AND TRAINING:** Superior Court Human Resources shall as necessary coordinate and ensure education and training for Judges and Judicial employees regarding this policy. Judges, administrators, supervisors, and court clerks shall receive training to assist them in recognizing discrimination, harassment, and retaliation and taking appropriate action pursuant to this policy.