

## **1. HARASSMENT AND DISCRIMINATION**

- 1.1 The Court expressly prohibits any form of harassment, including sexual harassment, discrimination, or ill-treatment based on an employee's race, color, religion, gender, age, disability, sexual orientation, national origin, ancestry, uniformed service member status, or the exercise of any legal rights.
- 1.2 Harassment generally consists of verbal or physical conduct that denigrates or shows hostility or aversion toward an individual or group of individuals. The Court takes the broadest possible view consistent with law and reason regarding conduct encompassed by the term "harassment". However, the Court recognizes the rights of managers and supervisors to counsel and discipline employees appropriately, and such activities are not included in the definition of "harassment". Although not an exhaustive list, the examples and descriptions provided herein should be used as guidelines for determining expected standards of professional and responsible conduct.
- 1.3 Discrimination in the form of harassment includes but is not limited to, any of the following behaviors or activities which, by their nature, are directed toward any individual or group of

individuals because of race, color, religion, sex, national origin, age or disability:

5.3a. Epithets, slurs, negative stereotyping, or jokes targeted at a particular individual or group;

5.3b. Threats, intimidating remarks, hostile acts, physical gestures or actions which serve to threaten, intimidate or denigrate; and/or

5.3c. The circulation of or presence in the work area or on Court premises of any written or graphic material that ridicules or denotes hostility or aversion or may be offensive based on a "reasonable person" standard.

- 1.4 All employees are responsible for helping ensure that the workplace is kept free of harassment and discrimination of any kind.
- 1.5 It is critical for any employee who experiences or witnesses possible harassment to report it promptly to the Court Administrator.
- 1.6 All complaints will be treated seriously, kept as confidential as possible, and investigated fully. However, the Court cannot guarantee complete confidentiality where it would conflict with the Court's obligation to investigate.
- 1.7 The court expressly forbids any retaliation of any kind against employees who make a good-faith report of possible harassment.

## **2. SEXUAL HARASSMENT**

- 6.1. "Sexual harassment" receives special attention by the Equal Employment Opportunity Commission (EEOC) and this Court. It is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature:
  - 6.1a. Either explicitly or implicitly makes compliance with the conduct a term or condition of an individual's employment;
  - 6.1b. Makes submission to or rejection of the conduct a basis for employment decision(s) affecting an individual; and/or
  - 6.1c. Has the purpose or effect of unreasonably interfering with an individual's work

performance

6.1d. Creates an intimidating, hostile, or offensive working environment.

6.2. The following examples of sexual harassment are not an exhaustive list but are provided as guidelines for determining expected standards of professional and responsible conduct:

6.2a. Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor (including repeated, unwelcome requests for dates), and verbal abuse or “kidding” that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.

6.2b. Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds, leering, staring, whistling, obscene gestures, content in letters, notes, emails, photos, text messages, tweets and internet postings; or other forms of communication that are sexual in nature and offensive.

6.2c. Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, massaging, cornering, kissing, fondling, and forced sexual intercourse or assault.

6.2d. Preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward.

6.2e. Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's sex.

6.3 Sexual harassment most often occurs between persons having unequal power, authority, or influence, regardless of the sexual preference of the parties involved.

Threats of adverse

consequences or promises of reward may be implied solely by circumstances of unequal power. Unequal power, authority, or influence alone may imply a threat of adverse consequence or promise of reward and describes an inherent conflict of interest when an individual exercises supervisory authority over another and engages in verbal or sexual conduct toward the supervised employee. Therefore, any dating or sexual relationship between a supervisor and subordinate, regardless of whether the relationship is consensual, is strongly discouraged by the Court because such relationships tend to create compromising conflicts of interest or the appearance of such conflicts. In addition, such a relationship may give rise to the perception by others that there is favoritism or bias in employment decisions affecting the staff employee. If there is such a relationship, the parties involved need to be aware that one or both may be moved to a different department or other actions may be taken.

6.4 Complaint Procedure - It is the duty of every employee who experiences or witnesses behavior which he/she believes may constitute harassment to immediately report such conduct by following the complaint procedures outlined herein. Retaliation against any employee who makes a good faith report of conduct which he/she believes may constitute harassment in violation of this policy, or who provides information during an investigation of a complaint, is strictly forbidden and shall be grounds for disciplinary

action up to and including dismissal. A victim of harassment should immediately inform the offending person, without fear of retaliation or reprisal, that the conduct is unwelcome, offensive and must stop. This is not a requirement, but rather a suggested course of action to immediately and effectively cease the harassment. Regardless of whether an employee communicates the problem directly to the offender, he/she must report all incidents of harassment to his/her supervisor (if not the offending party), and to the Court Administrator. Formal complaints shall be written and contain the following information:

- 6.4a. Specific description of harassment;
- 6.4b. Where, when and how often the harassment occurred;
- 6.4c. The name(s) of the harassing person(s); and
- 6.4d. The name of witness (es), if any.

6.5 Upon receipt of a complaint of sexual harassment, the Court shall appoint an investigator to promptly and thoroughly investigate all allegations/complaints of harassment, which may include interviewing and gathering statements from the complainant, the accused and all identified witnesses. Any party who refuses to cooperate with an internal investigation may be subject to disciplinary action. Confidentiality shall be maintained to the extent possible and practicable throughout the process. The investigator shall submit his/her finding to the Chief Judge . The Court Administrator shall make recommendations to the Chief Judge for further investigation, dismissal of the complaint, or disciplinary action up to and including dismissal.

When the harassment complaint is between a supervisory manager who is a Justice and a court employee, the Court Administrator will immediately inform the Chief Judge or, if appropriate, another judge The Judge who receives the complaint shall notify the Chief Judge if the complaint involves a possible violation of federal or state law and/or canon, at which time, the Chief Judge may, at his or her discretion, appoint a third party or outside investigator to review the matter to determine if any immediate actions need to be taken to protect the employee bringing the complaint. The employee should also make a complaint to the Judiciary Commission, the appropriate organization with authority to investigate allegations of judges' misconduct for the purpose of recommending discipline to the Supreme Court (the only organization with authority to discipline judges). Regardless of the investigative outcome, employees also have the right to pursue their claims in accordance with state or federal laws.

Formal complaints of judicial misconduct, including sexual harassment, shall be reported to the Judiciary Commission immediately by the Chief Judge or other Judge if appropriate, regardless of the decision to appoint a third party or outside investigator, and the report should include all documents, statements, and reports relevant to the allegations of misconduct or harassment and which are available to the Chief Judge and/or Court Administrator at the time of making the report.

6.6 Complaints of False Charges - Because of the nature of the problem, complaints of harassment cannot always be substantiated. Lack of corroborating evidence should not discourage victims of harassment from seeking relief through a formal complaint. However, charges found to have been intentionally dishonest or made maliciously without regard for the truth will subject the complainant to disciplinary action up to and

including dismissal.

6.7 Application and Notification of Policy - This policy is applicable to and disseminated to all officials and employees of the 15<sup>th</sup> JDC in the following manner:

6.7a. The policy is disseminated to all Court employees annually via email

6.7b. The policy is issued to all newly hired Court employees during the new hire onboarding process.

6.7d. The policy is located on the 15<sup>th</sup> JDC's website

6.8 Application and Notification of Policy - In accordance with Louisiana ACT 270, the following is effective January 1, 2019 in regards to Sexual Harassment:

6.8a. Each public servant, which includes all Court employees and Elected Officials shall receive a minimum of one-hour mandatory education and training on preventing sexual harassment during each full calendar year.

6.8b. Any person designated by the Court to accept or investigate complaints of sexual harassment must receive additional education and training beyond the one hour per calendar year.

6.8c. The education and training required pursuant to this Section may be received either in person or via the internet through training and education materials approved by the public servant's agency head.

6.8d. The Court Administrator shall be responsible for maintaining records of the compliance of each Court employee in the agency with the mandatory training requirement.

6.8e. Each record of compliance shall be a public record and available to the public in accordance with the Public Records Law.

6:9 Application and Notification of Policy - Mandatory reporting requirements in accordance with ACT 270: Each agency head shall compile an annual report by February first of each year containing information from the previous calendar year regarding his agency's compliance with the requirements of this Chapter to include:

6.9a. The number and percentage of public servants in his agency who have completed the training requirements

6.9b. The number of sexual harassment complaints received by his agency

6.9c. The number of complaints which resulted in a finding that sexual harassment occurred

6.9d. The number of complaints in which the finding of sexual harassment resulted in discipline or corrective action

6.9e. The amount of time it took to resolve each complaint.

6.10 Application and Notification of Policy – These reports shall be public record and available to the public in the manner provided by the Public Records Law . All courts will send their reports via email and hard copy to the Human Resources office at the Louisiana Supreme Court addressed as follows:

6.10a. Veronica Cheneau,

Deputy Judicial Administrator—Human Resources

Louisiana Supreme Court 400 Royal Street New Orleans, LA 70130

504-310-2317

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