



Administrative Policies
And Procedures
Tennessee Supreme Court
Administrative Office of the Courts

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Approved by: Chief Justice Sharon G. Lee and Deborah Taylor Tate, Director

Subject: Workplace Discrimination and Harassment

- I. **Authority:** T.C.A. §16-3-502; T.C.A. §16-3-803; T.C.A. §4-21-101; Title VII of the Civil Rights Act of 1964; Equal Pay Act of 1963; Age Discrimination in Employment Act of 1967; Americans' with Disabilities Act of 1990; T.C.A. §8-50-103 and §8-50-104; Pregnancy Discrimination in Employment Act; Vocational Rehabilitation Act of 1973; Uniformed Services Employment and Reemployment Act of 1994; Tennessee Human Rights Act.
- II. **Purpose:** To ensure a work environment free of discrimination and harassment of any individual because of that person's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, veteran's status or any other category protected by state and/or federal civil rights laws.
- III. **Application:** To all state judges and employees of the state court system who work or serve in a full-time or part-time status.
- IV. **Definitions:**
 - A. **Workplace Discrimination and Harassment:** Unequal and unlawful treatment of an individual on the basis of a person's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, or veteran's status or any other category protected by state and/or federal civil rights laws. It prohibits any unwelcome, verbal, written, physical conduct, or electronic communication that either degrades or shows hostility or aversion towards a person because of that person's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, or veteran's status or any other category protected by state and/or federal civil rights laws.

To aid in identifying prohibited behavior, the following specific examples of workplace discrimination and harassment are provided. These examples are not exhaustive; they illustrate, however, the types of conduct that violate this policy:

- Undermining a person's authority or work performance because of the person's protected characteristics, such as age or religion;
- Using stereotypes or assumptions to guide decision-making about a person's career;
- Unwelcome touching or near-touching, which can encompass leaning over, cornering, hugging, pinching, sexual innuendos, teasing and other sexual talk

such as jokes, personal inquiries, persistent unwanted courting and sexist put-downs;

- Slurs and jokes about a class of persons, such as disabled persons or a racial group;
- Distributing via electronic means epithets, slurs, jokes, or remarks that are derogatory, demeaning, threatening or suggestive to a person or persons or a particular person or that promote stereotypes of a class of persons;
- Display of explicit or offensive calendars, posters, pictures, drawings or cartoons that are sexually suggestive or that reflect disparagingly upon a class of persons or a particular person; or
- Derogatory remarks about a person's national origin, race, language, or accent.

B. Hostile Work Environment: An environment that a reasonable person would consider hostile or abusive and the person who is the object of the harassment perceives it to be hostile or abusive. A hostile work environment is determined by looking at all of the circumstances including, but not limited to: (1) the frequency of the alleged harassing conduct; (2) the severity of the alleged harassing conduct; (3) whether the alleged harassing conduct was physically threatening or humiliating; and (4) whether the alleged harassing conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive environment.

C. Sexual Harassment: Any unwelcome sexual advance, request for favors, and other verbal, written, or physical conduct of a sexual nature by a manager, supervisor, or co-worker, including interns or volunteers. Managerial harassment occurs when a manager or a supervisor gives or withholds a work-related benefit in exchange for sexual favors from the victim or takes an adverse action against an employee for refusing a request for sexual favors. Threatening to take such actions may also be a violation of this policy. Certain actions may also create a hostile work environment. As defined in the immediately preceding paragraph.

D. Retaliation: Any act of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or individuals exercising rights under this policy.

V. Policy: It is the policy of the Court System to provide an environment free of unlawful discrimination, harassment or retaliation of any employee because of that person's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, or veteran's status or any other category protected by state and/or federal civil rights laws. Employees engaged in any form of unlawful harassment are subject to appropriate corrective action, including dismissal. The fact that an alleged offender meant no harm or was teasing will not excuse conduct that violates this policy.

VI. Reporting Incidents of Discrimination, Harassment or Retaliation: If an employee believes they have been subjected to discriminatory, harassing, or retaliatory conduct that violates this policy, the person must report the incident as soon as possible after the event occurs.

If an individual believes they have been subjected to retaliation for engaging in protected conduct under this policy, they must report those incidents as soon as reasonably possible after the event occurs.

Employees may file a complaint with the director, human resources manager, or immediate manager. Under no circumstances is the person alleging the workplace discrimination, harassment or retaliation required to file a complaint with the alleged harasser.

Individuals who wish to file a complaint are encouraged to submit the complaint in writing and to include a description of the incident(s) as well as the date(s), time(s), place(s) and any witnesses.

- VII. **Investigating and Resolving Complaints:** The human resources manager will review all complaints and speak with the complainant to determine if conduct falls within the terms of the policy. If necessary, protective measures will be taken for the safety of the parties and any other impacted employees.

Any individual who provides information related to complaints will be protected against retaliation.

All complaints falling within the terms of this policy will be addressed on a case-by-case basis and will receive a thorough, neutral and timely investigation by the human resources manager or other designated investigator as determined on a case-by-case situation by the human resources manager. The investigation will include interviews with any witnesses or other individuals necessary to address the complaint.

Following the investigation the director and the human resources manager will make a determination whether a violation of the policy occurred and determine what, if any, corrective action is warranted.

- VIII. **Confidentiality:** To the extent permitted by law, the Court System will try to maintain the confidentiality of each party involved in a workplace harassment investigation, complaint or charge, provided it does not interfere with the ability to investigate the allegations or take corrective action. However, the Court System does not guarantee confidentiality.

- IX. **Directive to Management Personnel:** Management personnel who receive a complaint alleging work place discrimination or harassment or learn by any means of conduct that may violate this policy must immediately report any such incident to the human resources manager.

- X. **Corrective Action for Violation of this Policy:** Any employee who engages in conduct that violates this policy or who encourages such conduct by others will be subject to corrective action. Such corrective action includes, but is not limited to, mandatory participation in counseling, training, disciplinary action, and termination.

Management personnel who allow workplace discrimination, harassment or retaliation to continue or fail to take appropriate action upon learning of such conduct will be subject to corrective action. Such corrective action includes, but is not limited to, mandatory participation in counseling, training, disciplinary action, and termination.