I. **Authority:** Tenn. Code Ann. § 16-3-502; Tenn. Code Ann. § 16-3-803; Tenn. Code Ann. § 4-21-101; Title VI of the Civil Rights Act of 1964; 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; Tenn. Code Ann. §§ 8-50-103; 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.

The Tennessee Judiciary is committed to doing all it can to ensure its courts and workplaces are free from illegal discrimination and harassment for all individuals. The Code of Judicial Conduct mandates that "[a] judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice," and "shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so." Tenn. Sup. Ct. R. 10, Canon 2, RJC 2.3(A)-(B).

Persons who are not "employees" as defined by this policy but who have information concerning a judge's violation of this policy or the Code of Judicial Conduct are encouraged to contact the Human Resources Manager at the Administrative Office of the Courts at 615-741-2687 or Human.Resources@tncourts.gov for assistance with reporting unethical conduct to the Board of Judicial Conduct. Similarly, persons having information concerning illegal discriminatory and harassing conduct by a judicial staff member or an employee of the judiciary in violation of this policy are encouraged to report such conduct to the Human Resources Manager at the Administrative Office of the Courts at 615-741-2687 or Human.Resources@tncourts.gov.

II. Definitions:

A. "Workplace Discrimination and Harassment" is unequal and unlawful treatment of an individual on the basis of a person's race, color, national origin, age (40 years of age and over), sex, pregnancy, religion, creed, disability, veteran's status, or any other category protected by state and/or federal civil rights laws. It prohibits any unwelcome conduct, or electronic communication that discriminates against a person because of that person's race, color, national origin, age (40 years of age and over), sex, pregnancy, religion, creed, disability, or veteran's status, or any other category protected by state and/or federal civil rights laws.

The following non-exhaustive list includes examples of workplace discrimination and harassment that violate this policy:

- Undermining a person's authority or work performance because of the person's protected characteristics;
- Using stereotypes or assumptions to guide decision-making about a person's career;
- Making unwelcome advances such as unwelcome touching or near-touching, making sexual innuendos, making personal inquiries, persistent unwanted courting, and sexist put-downs;
- Making slurs or jokes about a class of persons, such as disabled persons or a racial group;
- Sending or distributing via electronic means derogatory, demeaning, suggestive or threatening epithets, slurs, jokes, or remarks to a person or persons or a particular person or that promote stereotypes of a class of persons;
- Displaying explicit or offensive calendars, posters, pictures, drawings or cartoons that are sexually suggestive or that disparage 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" is an environment that a reasonable person and the person who is the subject of the harassment would consider hostile or abusive. A hostile work environment is determined by a totality 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" is any unwelcome sexual advance, request for favors, and other verbal, written, or physical conduct of a sexual nature by a

manager, supervisor, colleague, 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" occurs when any adverse action is taken against an individual or individuals for exercising rights under this policy.

E. "Employee" is any person who works for the Administrative Office of the Courts ("AOC"), Appellate Court Clerk's Office, Board of Law Examiners ("BLE"), Board of Professional Responsibility ("BPR"), Commission on Continuing Legal Education and Specialization ("CLE"), or Tennessee Lawyer Assistance Program ("TLAP") in a full-time or part-time status.

F. "Judge" is any state judge or justice who serves in a full-time or part-time status, including senior, special, and retired judges who are designated by the Chief Justice or as otherwise provided by law.

G. "Judicial Staff" is any person who works for a state judge in a full-time or part-time status.

III. **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 years of age and over), sex, pregnancy, religion, creed, disability, veteran's status or any other category protected by state and/or federal civil rights laws.

IV. **Application:**

A. This policy shall apply be applied consistently throughout the divisions of the AOC, Appellate Court Clerk's Office, BLE, BPR, CLE, TLAP and to all employees. All employees shall receive mandatory annual training related to this policy.

B. This policy shall be applied consistently among the judges and their judicial staff. All judges and judicial staff shall annually review this policy and shall provide to the AOC a signed acknowledgement form affirming that they have reviewed and understand this policy. If any judge or judicial staff requires additional information or assistance concerning this policy, it can be obtained by contacting the AOC human resources manager. Judges should also regularly familiarize themselves with the Code of Judicial Conduct's requirements related to preventing bias, prejudice, and harassment.

V. **Policy:** It is the policy of the state judiciary to provide an environment free of unlawful discrimination, harassment, or retaliation of any employee, judge, or judicial staff because of that person's race, color, national origin, age (40 years of age 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 or judicial staff engaged in any form of unlawful harassment are subject to appropriate corrective action, including termination. Judges engaged in any form of unlawful harassment are subject to discipline and possible legislative impeachment as provided by law. 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, judge, or judicial staff member believes they have been subjected to discriminatory, harassing, or retaliatory conduct that violates this policy, the person is encouraged to 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 are encouraged to report those incidents as soon as reasonably possible after the event occurs.

Employees and judicial staff may file a complaint with the AOC director, AOC human resources manager, or immediate supervisor. Under no circumstances is the person alleging the workplace discrimination, harassment, or retaliation required to file a complaint with the alleged harasser. Judges may file a complaint with the AOC director, AOC human resources manager, or the Chief Justice.

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 the name(s) of any witnesses. Although not required to report a complaint, a complaint form is provided within this policy.

VII. **Investigating and Resolving Complaints:** The AOC 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, judges, or judicial staff.

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 AOC human resources manager or other designated investigator that the

circumstances may warrant. The investigation will include interviews with any witnesses or other individuals necessary to thoroughly address the complaint.

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

If the complaint involves a judge accused of violating this policy, the AOC director or human resources manager will immediately forward the complaint to disciplinary counsel of the Board of Judicial Conduct.

If the complaint involves judicial staff having violated this policy, to the extent appropriate, the AOC director and AOC human resources manager will work with the judicial staff member's supervising judge concerning the complaint and together determine what, if any, corrective action is warranted.

VIII. **Confidentiality:** To the extent permitted by law, the state judiciary will attempt to maintain the confidentiality of each party involved in a workplace discrimination or harassment investigation, provided it does not interfere with the ability to investigate the allegations or take corrective action. However, the state judiciary cannot guarantee confidentiality.

IX. **Directive to Management and Supervising Personnel:** Management and supervisors, including judges, who receive a complaint alleging workplace discrimination or harassment, or learn of conduct that may violate this policy, should immediately report any such incident to the AOC human resources manager.

X. **Corrective Action for Violation of this Policy:** Any employee, judge, or judicial staff who engages in conduct that violates this policy, or who encourages such conduct by others, is subject to corrective action. Such corrective action may include, but is not limited to, counseling, training, disciplinary action, termination, or for judges, legislative impeachment as provided by law.