



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

William M. Barker

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Supersedes:

Approved by: Chief Justice William M. Barker and Randy C. Camp, Director

Subject: Workplace Harassment

- I. Authority: Title VII of the Civil Rights Act of 1964; T.C.A. §16-3-803; T.C.A. Title 4, Chapter 21, Parts 1 and 4; Equal Pay Act of 1963; Age Discrimination in Employment Act of 1967; Americans' with Disabilities Act of 1990; T.C.A. §8-50-103(a) 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 that all employees are allowed to work in an environment free from all forms of unlawful workplace harassment.
- III. Application: To all state judges and paid or unpaid employees of the state court system who work or serve in a full-time or part-time status.
- IV. Definitions:
 - A. Workplace Harassment: Any unwelcome verbal, written, or physical conduct that either degrades or shows hostility or aversion towards a person because of the person's race, color, national origin, age (over 40), sex, pregnancy, religion, creed, disability, or veteran's status that (1) has the purpose or effect of creating an intimidating, hostile, or offensive work environment; (2) has the purpose or effect of unreasonably interfering with an employee's work performance; or (3) affects an employee's employment opportunities or compensation.

To aid in identifying prohibited behavior, the following specific examples of conduct that violate this policy include, but are not limited to:

1. Unwelcome touching or near-touching, which can encompass leaning over, cornering, hugging, or pinching; sexual innuendos, teasing and other sexual talk such as jokes, personal inquiries, persistent unwanted courting and sexist put-downs;
2. Slurs and jokes about a class of persons;
3. Distributing via-e-mail epithets, slurs, jokes or remarks that are derogatory or demeaning to a class of persons or a particular person or that promote stereotypes of a class of persons;

4. 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;
 5. Derogatory remarks about a person's national origin, race, language, or accent.
- B. Hostile environment: Hostile environment harassment occurs when a victim is subjected to behavior that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working 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, co-worker, or non-employee (third party). 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. See the definition for "hostile work environment" above.
- D. Retaliation: Overt or covert acts or reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or individuals exercising rights under this policy.
- E. Third Parties: Third parties are individuals who are not state employees but who have business interactions with state employees. Such individuals include, but are not limited to, applicants for employment, vendors, or contractors.
- V. Policy: It is the policy of the judicial branch to provide an environment free of harassment of an employee or third party because of that person's race, color, national origin, age (over 40), sex, pregnancy, religion, creed, disability, or veteran's status or any other category protected by state and/or federal civil rights laws. Any employee that engages in conduct that violates this policy or who encourages such conduct by others will be subject to corrective action. The judicial branch will not tolerate any form of retaliation directed against an employee, applicant for employment, or third party who either complains about harassment or who participates in any investigation concerning harassment. The fact that an alleged offender meant no harm or was teasing will not excuse conduct that violates this policy.
- VI. Procedures:
- A. A copy of this policy will be circulated to all employees and be displayed conspicuously in all facilities.

- B. A copy of this policy will be given to all new judicial branch employees as a part of orientation.
- C. All recruitment sources will be notified in writing of the policy.
- D. It is the responsibility of every employee to do their part in preventing all forms of unjust treatment and harassment of any kind.
- E. If an employee or third party believes he/she has been subjected to conduct that violates this policy, he/she must report those incidents as soon as possible after the event occurs.
- F. Employees, applicants for employment, or third parties may file a complaint with Human Resources or any member of management. Under no circumstances is the individual alleging workplace harassment required to file a complaint with the alleged harasser. If an employee believes he/she cannot file a complaint within the judicial branch, that person should contact the EEOC at 1-800-669-4000 (voice) or 1-800-669-6820 (TTY) or the Tennessee Human Rights Commission at 615-741-5825 for information on specific procedures for filing a complaint. The employee also may file a lawsuit in a court of competent jurisdiction.
- G. Individual 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.
- H. If an individual believes he/she has been subjected to retaliation for engaging in protected conduct under this policy, he/she must report those incidents as soon as possible after the event occurs.
- I. Any individual who provides information related to complaints will be protected against retaliation.
- J. If after consultation with the complainant, it is determined that the conduct falls within the terms of this policy, a neutral and impartial investigator will be appointed. As soon as practicable, the investigator should complete the following:
 - 1. Interview the complainant;
 - 2. Identify and interview witnesses, if any;
 - 3. Notify the accused in writing that a complaint has been filed and request a written response;
 - 4. Interview the accused, if appropriate; and
 - 5. Prepare a written report, including findings and recommendations for appropriate action.
- K. If the complainant does not agree with the report's findings and recommendations, the complainant may file a complaint with the EEOC or the Tennessee Human Rights Commission.

- L. To the extent permitted by law, the judicial branch will try to maintain the confidentiality of each party involved in a harassment investigation, complaint or charge, provided it does not interfere with the ability to investigate the allegations or to take corrective action. Confidentiality cannot be guaranteed. Any documents that are made or received in the course of the investigation are public records under the State's Public Records Act, unless otherwise exempted by state law.
- M. Complaints involving judicial officers will also be reported to the Court of the Judiciary as required by law.