



## Supreme Court of Illinois Administrative Office of the Illinois Courts

### SUPREME COURT OF ILLINOIS NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY

#### I. Policy Statement

It is the policy of the Supreme Court of Illinois to provide a work environment free from unlawful discrimination and harassment. Discrimination and harassment based on race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, pregnancy, genetic information, or any other basis as provided by law, are prohibited. Discrimination and harassment are inappropriate, offensive, and will not be tolerated.

#### II. Definitions

- A. **Administrative Authority** is the official or designee with the primary responsibility to supervise and coordinate the administration of a court or court office over which he or she presides. Examples of administrative authorities include the Chief Justice of the Supreme Court, the Chairperson of the Executive Committee of the First District Appellate Court, the Presiding Judges of the 2nd, 3rd, 4th, and 5th District Appellate Courts, Chief Circuit Judges, the Administrative Director, the Supreme Court Marshal, the Reporter of Decisions, the Supreme Court Librarian, the Chief Internal Auditor, and the Clerks of the Supreme Court and the Appellate Court.
- B. **Discrimination** is unfavorable treatment of an individual, involving any term or condition of employment, based on that individual's race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, pregnancy, genetic information, or any other basis, as provided by law.
- C. **Employee** means state-paid full-time and part-time judicial branch employees.
- D. **Harassment** is verbal or physical conduct that is directed at an individual because of his or her race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, pregnancy, genetic information, or any other basis, as provided by law, and is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of creating a hostile environment.
- E. **Manager** means judges and judicial branch employees responsible for the supervision of others. The definition of Manager is not restricted to Administrative Authorities.
- F. **Retaliation** is an adverse action, performed directly or through others, that would deter a reasonable person from reporting or participating in the investigation of conduct prohibited by this policy. Adverse actions may include, but are not limited to, termination, negative performance evaluations, discipline, demotion, reassignment, or

reduction in pay.

**G.** **Sexual harassment** is any sexual advance, request for sexual favor, or 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. An individual's submission to or rejection of such conduct is the basis for employment decisions affecting such individual;
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance; or
4. Such conduct creates an intimidating, hostile, or offensive working environment, such that a reasonable person would find the environment to be hostile or abusive.

**H.** A **third party** is any individual who is not a judge or state-paid judicial branch employee but who interacts with judges and judicial branch employees, including, but not limited to, Supreme Court Committee/Commission/Board members, Illinois Judicial Conference members, Illinois Judicial College members, faculty and students, applicants for employment, lawyers, vendors, contractors, volunteers, court users, students, unpaid interns/externs/law clerks, bailiffs, court security, circuit clerk staff, and other judicial branch partners.

### **III. Applicability**

This policy shall be applicable to all judges of the Circuit, Appellate, and Supreme Courts of Illinois, state-paid judicial branch employees whether full-time, part-time, temporary, or contractual, including administrative authorities, managers, and third parties.

### **IV. Examples of Prohibited Conduct**

The conduct described below may be a violation of this policy. Whether conduct violates this policy and is subject to discipline will be analyzed on a case-by-case basis, taking into consideration all relevant facts and circumstances. These examples are used for illustrative purposes and do not include all conduct that may violate this policy.

#### **A. Physical**

1. Unwelcome, sexually-motivated, or inappropriate physical contact such as touching, patting, squeezing, hugging, kissing, pinching, brushing of or by the body, or other sexual contact.
2. Touching oneself sexually in view of another or exposing oneself.
3. Mocking or imitating the speech, hearing, walk, or movement of a person with a disability; mocking identifiable characteristics of an individual or group of a protected status.
4. Physical assaults or threats.

## **B. Verbal**

1. Comments or discussions of a sexual nature.
2. Unwelcome requests for dates or for sexual activity.
3. Demands for sexual favors or promises of preferential treatment with regard to an individual's employment status accompanied by implied or overt threats concerning an individual's employment status.
4. Sexual innuendoes, flirtation, suggestive comments, jokes of a sexual nature, sexual propositions, or sexual remarks.
5. Negative treatment or threats of negative treatment for refusing to submit to sexual conduct or participate in any prohibited conduct or activity.
6. Verbal abuse, innuendo, jokes, remarks, epithets, or slurs based upon race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, pregnancy, genetic information, or any other basis provided by law.
7. Imitating a person's speech or accent.
8. Obscene or lewd sexual comments.
9. Using slang names or labels that may be considered derogatory or too familiar, such as, honey, sweetie, dear, darling, boy, girl, or other terms people may find offensive.
10. Talking about or calling attention to an individual's body or characteristics in a sexual or embarrassing way.

## **C. Nonverbal**

1. Staring, leering, ogling, or whistling.
2. Obscene or suggestive gestures.
3. Display of objects or pictures, such as content displayed on a computer screen, cell phone, magazines, posters, calendars, cartoons, or jokes that are sexually suggestive or explicit or disparage people based upon race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, pregnancy, genetic information, or any other basis, as provided by law.
4. Transmitting e-mails, instant messages, texts, or other correspondence that include content that is sexually suggestive or explicit or disparage people based upon race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, pregnancy, genetic information, or any other basis, as provided by law.

5. Sexually suggestive looks, sexually suggestive or insulting sounds (whistling, catcalls, smacking or kissing noises), or obscene or sexually suggestive bodily gestures.

## **V. Discrimination and Harassment Complaint Procedures**

Discrimination and harassment will not be tolerated. Persons subject to this policy are encouraged to report all incidents of discrimination and harassment as soon as possible after the incident occurs to the individuals identified below, even where the discrimination or harassment was not directed at the complainant. Managers with knowledge of conduct that may be in violation of this policy are required to report such conduct, even in the absence of a complaint.

In all matters, the Administrative Office of the Illinois Courts (AOIC) and its staff are authorized to secure additional information and follow-up on any complaint of discrimination and harassment.

All reports of discrimination and harassment will be taken seriously and are subject to investigation. The scope of the investigation will vary based on the nature of the complaint and other factors. Any person subject to this policy who believes he or she has been or is being subjected to discrimination or harassment or has witnessed an individual being subjected to discrimination or harassment should follow the complaint procedure outlined below.

Judges and lawyers may have mandatory reporting responsibilities beyond this policy pursuant to the Code of Judicial Conduct or the Rules of Professional Conduct. Complainants may also report any judge accused of committing an act of discrimination or harassment to the Judicial Inquiry Board at (312) 814-5554 and any lawyer accused of committing an act of discrimination or harassment to the Attorney Registration & Disciplinary Commission at (312) 565-2600.

### **A. Procedure**

#### **1. Initial Steps**

Any individual subject to this policy who feels that he or she has been or is being subjected to discrimination or harassment or who has witnessed discrimination or harassment may choose to direct the offending party to stop. If the individual does not feel comfortable confronting the offending party or if the conduct continues after directing the offending party to stop, the individual should report the conduct to any of the following individuals:

- a. Immediate manager of the complainant or the offending party;
- b. Administrative authority of the complainant or the offending party;
- c. Assistant Director, Human Resources or Human Resource Manager of the Administrative Office of the Illinois Courts ("Administrative Office");
- d. Administrative Director; or
- e. Chief Justice (where offending party is a Chief Judge, a Presiding Judge of the Appellate Courts, the Chair of the Executive Committee of the First District Appellate Court, or the Administrative Director).

2. The complainant may be asked to provide information in writing, which may include, but is not limited to, the following:
  - a. The name of the alleged offending party;
  - b. The name of the complainant (and the name of the individual being harassed or subject to discrimination, if different than the complainant);
  - c. A description of the incident(s), including the date(s), time(s), and location(s);
  - d. A list of witnesses to the incident(s);
  - e. The steps taken to stop the discrimination or harassment, if any; and
  - f. Any other information the complainant believes to be relevant.

## **B. Complaint Response**

The interests of all parties are best served by the prompt investigation and resolution of discrimination and harassment complaints. The complaint shall be promptly investigated and every attempt shall be made to promptly resolve the complaint where evidence of discrimination or harassment is found.

Managers receiving a complaint about an employee, a judge, or a third party shall notify the appropriate administrative authority, outlined below and the Administrative Office within five business days. The administrative authority or the administrative authority's designee, as outlined below, in consultation with the Administrative Office shall ensure that complaints are promptly investigated and that appropriate action is taken to resolve the complaint.

When an administrative authority has received a complaint alleging discrimination or harassment, he or she shall promptly initiate an investigation of the complaint. At any time, the Administrative Office may determine and direct that the investigation shall be managed jointly with or solely by the Administrative Office.

### **1. Complaints Against Employees**

Managers receiving a complaint against an employee shall notify the employee's administrative authority. The employee's administrative authority or the administrative authority's designee shall promptly initiate an investigation of the complaint and take appropriate action.

### **2. Complaints Against Judges**

In all cases involving a judge as an alleged offending party where evidence of discrimination or harassment is found, the matter shall be forwarded to the Judicial Inquiry Board by the investigating party.

**a. Circuit Court Judges**

Managers receiving a complaint against a circuit court judge shall notify the Chief Circuit Judge within five business days. The Chief Circuit Judge or a designee shall promptly initiate an investigation of the complaint and take appropriate action. If a complaint is made against the Chief Circuit Judge, the Chief Justice or a designee shall initiate an investigation and take appropriate action.

**b. Appellate Court Judges**

Managers receiving a complaint against an appellate court judge shall notify the Presiding Judge or Executive Committee Chair in the Appellate District where the alleged offending appellate judge presides. The Presiding Judge or Executive Committee Chair or a designee shall promptly initiate an investigation of the complaint and take appropriate action. If a complaint is made against the Presiding Judge or Executive Committee Chair of an Appellate District, the Chief Justice or a designee shall initiate an investigation and take appropriate action.

**c. Supreme Court Justices**

If a complaint is made against a Supreme Court Justice, it shall be reported to the Chief Justice. The Chief Justice shall promptly initiate an investigation of the complaint and take appropriate action. If a complaint is made against the Chief Justice, the most senior Supreme Court Justice shall initiate an investigation and take appropriate action.

**3. Complaints of Discrimination and Harassment Against Non-Employees/Third Parties**

Managers shall report complaints of discrimination or harassment against a third party to the appropriate administrative authority. The administrative authority shall promptly initiate an investigation of the complaint and take appropriate action.

**C. Investigation**

If the allegation warrants, the investigation may include, but is not limited to, the following steps:

1. The administrative authority or a designee may interview the complainant to gather a true and complete account of the allegations. Where practical and relevant, the administrative authority may also interview witnesses. The complainant and witnesses shall be informed that retaliation is prohibited and should be immediately reported as provided in this policy.
2. The administrative authority or a designee may interview the individual alleged to have engaged in discrimination or harassment and inform the individual that a complaint has been made against him or her. The individual shall be informed that retaliation will not be tolerated.

3. The administrative authority or a designee may review any other relevant information or evidence and interview any other relevant witnesses.

The investigation shall include the following steps:

1. The administrative authority or a designee shall make a written record of the interviews, if any.
2. The administrative authority or a designee shall prepare a written summary of findings and, if evidence of harassment or discrimination exists, provide recommendations for discipline.
3. The administrative authority shall notify the complainant and the respondent of the results of the investigation in writing.

#### **D. Retaliation Prohibited**

Retaliation against any individual who reports discrimination or harassment or participates in an investigation is prohibited. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including termination. If a judge is found to have engaged in retaliation, the Chief Circuit Judge, Presiding Judge, or Chief Justice shall take appropriate action. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action. Allegations of retaliation should be reported pursuant to the complaint procedure in this policy.

#### **E. False Statements**

False statements and allegations during the complaint or investigation process are strictly prohibited. Individuals who knowingly file a false complaint of discrimination or harassment or provide false information during the course of an investigation may be subject to disciplinary action, up to and including termination.

#### **F. Confidentiality**

Complaints of discrimination and harassment will be treated as confidential to the extent possible, though complete confidentiality cannot be guaranteed. The investigation process may require the sharing of relevant information with others, such as witnesses and managers.

#### **G. Corrective Action**

Administrative authorities shall take prompt and appropriate corrective action when evidence supports a claim of discrimination or harassment. Violation of this policy by Judicial Branch employees shall result in discipline up to and including termination.

Violation of this policy by judges shall result in appropriate action by the Chief Judge, Presiding Justice or Executive Committee Chair, or Chief Justice, and shall include a report to the Judicial Inquiry Board.

Violation of this policy by third parties shall result in appropriate action that will depend upon the facts and circumstances, including the relationship between the third party and the Judicial Branch. The administrative authority, in consultation with the Administrative Office, will determine an

appropriate action and communicate such action to the third party and his or her employer, if any.

Judges and lawyers responsible for investigating and administering corrective action are encouraged to review their ethical obligations under the Code of Judicial Conduct or the Illinois Rules of Professional Conduct. Judges and lawyers may have additional reporting responsibilities beyond that provided by this policy.

#### **H. Further Information**

Any employee who has questions about this policy should contact the Human Resources Division of the Administrative Office of the Illinois Courts at (312) 793-3250 or (217) 558-4490.

### **VII. Review of Policy and Procedures**

The Administrative Office shall from time-to-time review this policy and its procedures and submit recommended changes to the Supreme Court.

### **VIII. Administrative Authority & Manager Responsibilities**

Administrative authorities and managers of the Illinois judicial branch shall:

- a. Ensure that their workplaces are free of discrimination and harassment.
- b. Support training on discrimination, harassment, and this policy.
- c. Prominently post and distribute this policy.
- d. Encourage employees to report discrimination and harassment.
- e. Regularly discuss the contents of this policy with staff and third parties.
- f. Model behavior consistent with these guidelines.
- g. Respond to reported and unreported acts of discrimination or harassment.
- h. Report discrimination or harassment to the appropriate office or officer.
- i. Cooperate and participate in good faith with investigations of discrimination and harassment.
- j. Take appropriate action where a finding of discrimination or harassment is made.

Managers who participate in, allow, or tolerate discrimination, harassment, or retaliation may be subject to discipline up to and including termination and reporting to the Judicial Inquiry Board for those managers that are judges.

### **IX. Appeals**

Within 10 business days of notification of the results of an investigation, the complainant or respondent may notify the investigating administrative authority of his or her wish to appeal the determination as to whether the Policy was violated. If the administrative authority receives timely



notice of appeal, the administrative authority shall refer the matter to an alternate administrative authority for further review. Review of discrimination and harassment proceedings may be sought from a Chief Circuit Judge, the Presiding Judge of each Appellate Court, the Chair of the Executive Committee of the First District Appellate Court, or the Administrative Director.

The reviewing administrative authority shall promptly review the file, including notes, memoranda, reports, evidence, and findings, and determine whether the file supports the decision rendered by the referring administrative authority. If the file does not support the decision rendered by the referring administrative authority, the matter shall be returned to the referring administrative authority for reconsideration. If the findings support the decision of the referring administrative authority, the matter shall be closed.

## **X. Disclaimer**

This policy does not limit or restrict complainants from reporting discrimination or harassment to any other party, including but not limited to law enforcement, attorneys, or administrative agencies.