



Minnesota Judicial Branch Policy

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Discrimination and Harassment Policy

I. POLICY STATEMENT

It is the policy of the Minnesota Judicial Branch that discrimination and harassment in the workplace is prohibited. Employment discrimination or harassment based on sex, race, color, creed, religion, national origin, age, marital status, sexual orientation, disability, status with regard to public assistance, familial status¹, or membership or activity in a local commission² will not be tolerated³.

It is the responsibility of every judge and court employee to strive to create an environment free of harassment and discrimination. All judges and court employees are expected to treat other court employees, court users, and the public with dignity and respect and to comply with this policy. Violations of this policy will result in disciplinary action. Violations of this policy by third parties will be subject to appropriate action.

Any form of retaliation directed against an individual who complains about discrimination or harassment or who participates in any investigation concerning discrimination or harassment is strictly prohibited and will not be tolerated.

II. DEFINITIONS

A. **Discrimination**

Discrimination is differing treatment of an individual, involving any term or condition of employment, based on that individual's sex, race, color, creed, religion, national origin, age, marital status, sexual orientation, disability, status with regard to public assistance, familial status, or membership or activity in a local

¹ [Minnesota Statute 363A.03 - Definitions](#)

² [Minnesota Statute 363A.07](#)

³ [Minnesota Statute 363A.08](#)

commission. Discrimination based on these protected classes is prohibited by state and federal law⁴.

B. Harassment

Harassment is verbal or physical conduct that is directed at an individual because of his or her sex, race, color, creed, religion, national origin, age, marital status, sexual orientation, disability, status with regard to public assistance, familial status, or membership or activity in a local commission and that is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of creating a hostile environment. Harassment includes sexual harassment.

C. Management

Management includes appointing authorities, directors, managers, and supervisors, as defined by the Human Resources Rules.

D. Retaliation

Retaliation is intimidation, harassment or adverse action taken against an individual because he or she filed a harassment complaint or participated in an investigation of such complaint. Adverse action can include actions such as firing, negative performance evaluations, discipline, demotion, reassignment, or reduction in pay.

E. Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.⁵

F. Third Party

A third party is an individual who is not a Minnesota Judicial Branch employee but who has business interactions with Branch judges and employees, including, but not limited to: applicants for Branch employment, vendors, contractors, volunteers, court users, and business partners.

III. EXAMPLES OF CONDUCT THAT MAY CONSTITUTE DISCRIMINATION OR HARASSMENT

The conduct described below may under certain circumstances, constitute a violation of this policy. Whether conduct violates this policy and is subject to discipline must be analyzed on a case by case basis, taking into consideration all relevant facts and circumstances.

⁴ Civil Rights Act Title VII and Minnesota Statute 363A

⁵ See Civil Rights Act Title VII, [Minnesota Statutes Chapter 363A](#), and [U.S. Equal Employment Opportunity Commission - Facts About Sexual Harassment](#)

These examples are used for illustration purposes and are by no means all-inclusive of the types of conduct that may violate this policy.

A. Physical

1. Unwelcome, sexually-motivated or inappropriate physical contact such as kissing, touching, hugging, patting, brushing of or by the body, pinching or other sexual contact. Some types of physical contact may be appropriate if necessary to restrain individuals to avoid physical harm to persons or property.
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 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, sexual flirtation, suggestive comments, jokes of a sexual nature, sexual propositions, degrading 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 or innuendo jokes, remarks, epithets, or slurs based upon sex, race, color, creed, religion, national origin, age, marital status, sexual orientation, disability, status with regard to public assistance, familial status, or membership or activity in a local commission.
7. Imitating a person's speech impediments or foreign accent.

C. Nonverbal (Visual)

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 that disparage people based upon sex, race, color, creed, religion, national origin, age, marital status, sexual orientation, disability, status with regard to public assistance, familial status, or membership or activity in a local commission.
4. Transmitting emails, instant messages, texts, or other correspondence which include words, pictures, and/or links of a disparaging nature.

IV. DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

Discrimination and harassment will not be tolerated. All employees and third parties are encouraged to report incidents of discrimination and harassment as soon as possible after the incident occurs. Judicial Officers and management are required to report incidents of discrimination and harassment as soon as possible after they gain knowledge of the incident.

Reports of discrimination or harassment will be taken seriously and are subject to investigation according to the State Court Administrator Policy and Procedures 300(t): Human Resources Procedures for Employee Misconduct Investigations. The scope of the investigation will vary based on the nature of the complaint and other factors specific to the allegations.

An individual who believes he or she has been or is being subjected to discrimination or harassment should follow the complaint procedure outlined below rather than being required to resolve a situation on their own.

A. Complaint Procedure

1. An individual who feels he or she has been or is being subjected to discrimination or harassment should report the behavior to any of the following people:
 - a. Human Resources
 - b. Immediate supervisor
 - c. Any management within the work unit or courthouse
 - d. The Judicial District Administrator
 - e. The Chief Judge of the District or Court of Appeals
 - f. The State Court Administrator
 - g. The Chief Justice
2. To ensure the prompt and thorough investigation of a complaint of discrimination or harassment, the complainant may be asked to provide information in writing, which may include, but is not limited to:
 - a. The name, department, and position of the person(s) allegedly causing the harassment;
 - b. A description of the incident(s), including the date(s), location(s), and the presence of witnesses;
 - c. The name(s) of other individuals who may have been subject to similar harassment;
 - d. What, if any, steps have been taken to stop the harassment;
 - e. Any other information the complainant believes to be relevant.
3. Judicial officers/management must respond to the complaint or problem when a complaint of discrimination or harassment has been made through the complaint procedure, or when judicial officers/management is aware that a problem exists.

B. **Complaint Response and Investigation**

The Minnesota Judicial Branch recognizes that the interests of all persons are best served by the prompt investigation and resolution of discrimination and harassment complaints. The complaint shall be promptly investigated in accordance with the Human Resources Procedures for Employee Misconduct Investigations and an attempt shall be made to promptly resolve the complaint. False statements and allegations during the complaint or investigation process are strictly prohibited.

The confidentiality of complaints made pursuant to this policy will be handled in accordance with Minnesota Rules of Public Access Rule 5, subd. 1.

Employees who knowingly file a false complaint of discrimination or harassment will be subject to disciplinary action, up to and including termination.

1. Complaints Against Employees

- a. If a complaint is made against a trial court employee, the Judicial District Administrator, or other designee of the district, in consultation with the District Human Resources Manager, shall ensure that it is promptly investigated in accordance with State Court Administrator Policy and Procedure 300(t); Human Resources Procedures for Workplace Investigations, and that appropriate action is taken to resolve the complaint. The Judicial District Administrator or other designee of the district shall keep the Chief Judge apprised of the complaint status.
- b. If the complaint is made against the Judicial District Administrator, the Chief Judge shall initiate an investigation in accordance with State Court Administrator Policy and Procedure 300(t); Human Resources Procedures for Workplace Investigations, and take appropriate action.
- c. If a complaint is made against a Minnesota Judicial Branch employee other than a trial court employee, the State Court Administrator, Chief Judge of the Court of Appeals, the Chief Justice or other designee, in consultation with the Minnesota Judicial Center Human Resources Manager, shall ensure that it is promptly investigated in accordance with State Court Administrator Policy and Procedure 300(t); Human Resources Procedures for Workplace Investigations, and that appropriate action is taken to resolve the complaint.

2. Complaints Against Judges

This complaint process does not apply to complaints regarding case processing, requests or motions for removal, or decisions made in individual cases.

- a. **Trial Court Judges.** If a complaint is made against a trial court judge, it shall be reported to the Judicial District Administrator, who shall report it to the Chief Judge. The Chief Judge shall promptly notify and consult with the Chief Justice. The Chief Judge, in consultation with the District

Administrator, District Human Resources, and Judicial Branch Human Resources and Development Director, shall promptly initiate an investigation of the complaint and, after investigation and consultation with the Chief Justice, take appropriate action.

If the complaint is made against the Chief Judge, the Chief Justice shall initiate an investigation and take appropriate action.

- b. **Court of Appeals Judge.** If a complaint is made against a Judge of the Court of Appeals, it shall be reported to the Chief Judge of the Court of Appeals. The Chief Judge shall promptly notify and consult with the Chief Justice. The Chief Judge, in consultation with the State Court Administrator, Minnesota Judicial Center Human Resources, and Judicial Branch Human Resources and Development Director, shall promptly initiate an investigation of the complaint and, after investigation and consultation with the Chief Justice, take appropriate action.

If the complaint is made against the Chief Judge, the Chief Justice shall initiate an investigation and take appropriate action.

- c. **Supreme Court Justice.** If a complaint is made against a Supreme Court Justice, it shall be reported to the Chief Justice. The Chief Justice shall promptly notify and consult with the Vice Chair of the Judicial Council. The Chief Justice, in consultation with the State Court Administrator, Minnesota Judicial Center Human Resources Manager, and the Judicial Branch Human Resources and Development Director, shall promptly initiate an investigation of the complaint and, after investigation and consultation with the Vice Chair of the Judicial Council, take appropriate action.

If the complaint is made against the Chief Justice, the Vice Chair of the Judicial Council shall initiate an investigation and take appropriate action.

3. Complaints against Third Parties

Third parties who are found to have engaged in discrimination or harassment in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and the Branch. The applicable Judicial District Administrator for the Trial Courts, or the State Court Administrator for State Court Administration, the Court of Appeals and Supreme Court, will work with their local Human Resources on appropriate action.

C. Corrective Action

The Minnesota Judicial Branch will take prompt and appropriate corrective action when it determines that discrimination or harassment has occurred. Violation of this policy will result in disciplinary action, up to and including termination or severance of contract. If a judge is found to have engaged in discrimination or harassment, the Chief Judge or Chief Justice shall take appropriate action.

V. NO RETALIATION

Retaliation against any person who reports discrimination or harassment or participates in an investigation of such reports is strictly prohibited. Retaliation will not be tolerated. 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 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, including severance of contract. Allegations of retaliation should be reported pursuant to the complaint procedure.

VI. MANAGEMENT/JUDICIAL OFFICER RESPONSIBILITY

A. Management and Judicial Officers⁶ are responsible for:

1. Modeling appropriate behavior;
2. Treating all complaints of discrimination and harassment seriously, regardless of the individuals or behaviors involved;
3. When a complaint of discrimination or harassment has been made to management, or a judicial officer, or the aforementioned are otherwise aware that a problem exists, management or the judicial officer must respond to the complaint or problem;
4. Immediately reporting all allegations or incidents of discrimination and harassment to Human Resources so that prompt and appropriate action can be taken;
5. Complying with the Branch's complaint and investigation procedures to ensure prompt and appropriate action in response to complaints of discrimination and harassment.

B. Management and judicial officers who knowingly participate in, allow, or tolerate discrimination and harassment or retaliation are in violation of this policy and are subject to discipline.

C. Sexual conduct between individuals of unequal employment power may constitute sexual harassment.

⁶ [MN Judicial Code of Conduct](#)

VII. ADDITIONAL INFORMATION

In addition to the complaint procedure provided in this policy, any judge or employee, or third party who believes he or she has experienced discrimination or harassment may also file a complaint with the Federal Equal Employment Opportunity Commission, the Minnesota Department of Human Rights, or may bring a lawsuit in the appropriate court. If the matter involves conduct by a judge, a complaint may also be filed with the Board on Judicial Standards. This is not an exhaustive list of remedies.

VIII. IMPLEMENTATION AUTHORITY

With respect to complaints against judges, implementation of this policy shall be the responsibility of the Chief Judge of the respective judicial district and the Chief Judge or Chief Justice of the respective appellate courts.

With respect to complaints against trial court employees, implementation of this policy shall be the responsibility of the Judicial District Administrators.

With respect to complaints against appellate court employees, implementation of this policy shall be the responsibility of the State Court Administrator.

With respect to complaints regarding third parties, implementation of this policy shall be the responsibility of the administrator of the respective court operational unit.

IX. EXECUTIVE LIMITATIONS

Not applicable.