

The Judiciary State of Hawaii  
**DISCRIMINATION/HARASSMENT-FREE WORKPLACE POLICY**

**ZERO TOLERANCE POLICY**

The Judiciary is committed to promoting and maintaining a productive work environment free of any form of discrimination and harassment. The Judiciary does not tolerate workplace discrimination or harassment. The Judiciary is required to and will take appropriate action when discrimination or harassment is based on a person's race, color, sex, sexual orientation, condition of pregnancy, act of breastfeeding, religion, national origin, ancestry, age, disability, marital status, arrest and court record, income assignment for child support, national guard absence, uniformed service, or citizenship (*protected class discrimination*). The Judiciary will act to curb protected class discrimination or harassment without regard to its severity or pervasiveness and does not require that discrimination or harassment rise to the level of unlawfulness before taking action. Every Judiciary employee is responsible for assuring that work in the courts and court-related programs is conducted in an atmosphere that respects the dignity of every Judiciary employee, and people with whom the Judiciary conducts business. Judiciary employees are expected to avoid behavior that could reasonably be perceived as discrimination or harassment prohibited under this policy. A violation of this policy may result in disciplinary action, up to and including termination, in accordance with applicable Judiciary policies, collective bargaining agreements, and civil service rules.

**SCOPE**

This policy applies to all employees, justices and judges, volunteers, applicants for employment, and persons or entities providing services to the Judiciary, whether on a contract, per diem, full or part-time basis. This policy covers all interactions with staff, clients, and the public.

**PROHIBITED CONDUCT**

- (1) It is a violation of this policy to engage in *protected class discrimination*.
- (2) Protected class discrimination or harassment prohibited under this policy includes, but is not limited to, oral, written, physical or visual behavior, that offends, demeans, intimidates or is based on a person's status in a protected class (i.e., race, color, sex, sexual orientation, condition of pregnancy, act of breastfeeding, religion, national origin, ancestry, age, disability, marital status, arrest and court record, income assignment for child support, national guard absence, uniformed service, or citizenship).
- (3) Protected class characteristics may not be a basis for taking employment action or

making an employment decision that results in a significant change in benefits, or terms and conditions of employment.

(4) Other harassing or offensive conduct directed at individuals based on protected class characteristics is prohibited under this policy, and includes, but is not limited to:

- Unwanted physical contact, sexually suggestive or offensive touching, patting, hugging, or brushing against a person's clothing or body, pinching, or hitting;
- Sexual advances, requests for sexual favors, repeated and unwanted attempts at a romantic relationship, sexually explicit questions, comments about physical attributes;
- Lewd descriptions, sexual jokes, derogatory comments, slurs, profanity, anecdotes, vulgar questions, pressure for sexual activity, such as repeated requests for dates, and threats for refusing a sexual advance;
- Displays of demeaning, insulting, or sexually suggestive objects, pictures, or photographs;
- Demeaning, insulting, intimidating, or sexually suggestive, written, recorded, or electronically transmitted messages (such as email, voicemail, and Internet materials).

(5) Retaliation: The Judiciary encourages reporting of incidents of discrimination, harassment or retaliation. Retaliation against an individual who makes a complaint, or participates in an investigation, or provides information, is prohibited. A person who experiences retaliatory action after:

- a) Making a complaint of harassment;
- b) Making a disability request for reasonable accommodation; or
- c) Participating in a complaint investigation,

should report the matter to the investigator in charge of the complaint or the Equal Employment Opportunity (EEO) Officer.

## REPORTING PROCEDURES

The Judiciary encourages employees to report discrimination and/or harassment before it becomes severe or pervasive so that steps may be taken to stop the harassment before it rises to the level of unlawful behavior.

Anyone who observes or experiences discrimination or harassment prohibited

under this policy should, if possible, make it clear to the offender that he or she finds such behavior offensive. The incidents should also be reported to an immediate supervisor, other supervisory personnel, a program or court administrator, or the EEO Officer.

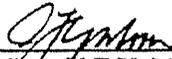
The Procedures for Reporting Discrimination, Harassment, or Retaliation in the Workplace, attached to this policy, describe how to report a complaint of harassment or discrimination. Complaints will be taken seriously and investigated promptly.

#### **LIMITED CONFIDENTIALITY**

The Judiciary shall, to the extent possible, protect the confidentiality of substantiated and unsubstantiated discrimination, harassment and retaliation reports and investigations. Information regarding reports and investigations shall be shared with appropriate individuals and agencies on a "need to know" basis, with due consideration for safety, security, and other interests.

#### **IMPLEMENTATION**

This policy supercedes the Judiciary's Harassment-Free Workplace Policy, dated November 27, 2000, and shall be effective upon approval.

  
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Ronald T. Y. Moon, Chief Justice

3/12/17  
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Date

## **PROCEDURES FOR REPORTING DISCRIMINATION, HARASSMENT OR RETALIATION IN THE WORKPLACE**

### **PROCEDURES**

The Judiciary urges the reporting of any incidents of discrimination, harassment, or retaliation, regardless of the identity of the alleged offender. Conduct that violates the Discrimination/Harassment-Free Workplace Policy should be reported to an immediate supervisor, other supervisory personnel, a program or court administrator, or the Equal Employment Opportunity (EEO) Officer. Employees are not required to first report a complaint to their immediate supervisor. No one is required to make a report to the accused person.

A complaint or report may be made either orally or in writing using the Discrimination Complaint Form AD-P-443. A complaint or report, whether oral or written, should include: complainant information, name of the alleged offender(s), including position and department, if known, a summary of the offensive acts, with the dates, times, and places of the incidents, the names of witnesses to the events, and copies of documents, if any, that support the complaint or report.

### **LIMITED CONFIDENTIALITY**

The Judiciary shall, to the extent possible, protect the confidentiality of substantiated and unsubstantiated discrimination, harassment and retaliation reports and investigations. Information regarding reports and investigations shall only be shared with appropriate individuals and agencies on a "need to know" basis, with due consideration for safety, security, and other interests.

### **ACTION TAKEN ON COMPLAINTS**

All complaints will be investigated promptly. The Judiciary may take appropriate interim action while an investigation is pending, including placing an accused or accusing employee on leave or temporary reassignment.

If the Judiciary finds that an employee violated the Discrimination/Harassment-Free Workplace Policy, the Judiciary will take appropriate corrective action, up to and including discharge of the employee. If an investigation shows that a justice or judge violated the Discrimination/Harassment-Free Workplace Policy, the matter shall be referred to the Commission on Judicial Conduct, as the Commission has exclusive authority to take disciplinary action against justices and judges. If the person found to have violated the policy is not employed by the Judiciary, other appropriate corrective action shall be taken, including notice to the actual employer. If the person found to have violated the policy is a lawyer, the findings also shall be reported to the Office of Disciplinary Counsel.