

State of North Carolina
Judicial Branch of Government
Unlawful Workplace Harassment Policy

PURPOSE

The "Judicial Branch Workplace Harassment Policy" was adopted May 25, 2000, as the policy of the North Carolina Judicial Branch of Government and applies to all employees of all judicial officials and other hiring authorities within the Judicial Branch of Government.

The purpose of this policy is to establish that the Judicial Branch of Government prohibits any form of unlawful workplace harassment of employees; to require that rules are established to ensure that work sites are free from unlawful workplace harassment; and to prohibit retaliation against employees who oppose unlawful workplace harassment.

This policy recognizes that there are numerous independently elected or appointed hiring authorities within the Judicial Branch of Government, including the Supreme Court and Court of Appeals, senior resident superior and chief district court judges, district attorneys, public defenders, and clerks of superior court. It also recognizes that the employees of these hiring authorities serve at their pleasure and that final authority and responsibility for all employment decisions, including hiring, promotion, discipline and termination rests solely with the hiring authority. The Administrative Office of the Courts does not have the authority to direct or review the employment decisions of a hiring authority or to initiate disciplinary action against them or their employees.

Nevertheless, all employees of the Judicial Branch hiring authorities have a right to work in an environment that is free of all forms of unlawful workplace harassment. All hiring authorities and supervisors have a duty to create and maintain such an environment and the State has the ultimate responsibility for assuring that right and enforcing that duty. Any liability incurred by the State would be paid from the funds in the courts' budget.

Therefore, this policy applies to all employees within the Judicial Branch by establishing standards that apply to all Judicial Branch hiring authorities and supervisors and creating remedies that are available to all employees of a hiring authority.

POLICY STATEMENT

The policy of the Judicial Branch of Government is that no employee may engage in conduct that falls under the definition of unlawful workplace harassment as defined below. All employees are guaranteed the right to work in an environment free from unlawful workplace harassment and from retaliation against employees who oppose unlawful workplace harassment.

DEFINITIONS

Unlawful Workplace Harassment

Unwelcome or unsolicited speech or conduct based upon

race, sex, creed, religion, national origin, age, color, or handicapping condition as defined by G.S. 168A-3 that creates a hostile work environment or circumstances involving quid pro quo. Harassment in the workplace includes all forms of harassment and abuse of authority.

Abuse of Authority

An individual's use of power and authority inherent in the position held in a manner which serves no legitimate work purpose and which ought reasonably to be known to be inappropriate. It includes the misuse of power, in an intimidating, coercive or demeaning manner. The legitimate and proper exercise of the hiring authority's right to supervise or manage (for example, performance reviews, work evaluation, disciplinary measures taken for any valid reason, reassignment of duties and termination of employment) **does not** constitute unlawful workplace harassment under this policy.

Workplace

Includes but is not limited to the actual work site. It may also include home or work site, training sessions, conferences, business travel, work related social gatherings, or other locations where an employee is engaged in activity associated with employment.

Hostile Work Environment

One that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at all of the circumstances including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it reasonably interferes with an employee's work performance.

Quid Pro Quo

Harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Examples of quid pro quo unlawful workplace harassment include:

- (1) A supervisor promises an employee a promotion if the employee acquiesces to sexual advances.
- (2) A supervisor begins each staff meeting with a prayer session conducted by a Christian minister. A Jewish employee refuses to participate in the prayer session and is terminated because of this refusal.

Retaliation

Is adverse action taken because of opposition to unlawful workplace harassment.

Coverage

All officers, employees and agents of the Judicial Branch of Government are protected under this policy.

Responsibilities of the Judicial Branch Hiring Authorities

While it is recognized that all Judicial Branch officials and employees share responsibility for creating a harassment-free workplace, it is important to emphasize that the Hiring Authority carries certain responsibilities for maintaining a harassment-free work environment. These responsibilities include:

- Providing leadership in the prevention of unlawful workplace harassment by fostering a climate of mutual respect.
- Ensuring that all employees are informed of the unlawful workplace harassment policy and are advised of their responsibilities and rights.
- Ensuring that prompt and appropriate action is taken when unlawful workplace harassment is alleged.
- Ensuring fair and equitable procedures for all parties to a complaint of unlawful workplace harassment.
- Taking disciplinary or other corrective measures, where necessary.
- Monitoring compliance with the unlawful workplace harassment policy.

Responsibilities of Judicial Branch Supervisors and Managers

Employees with supervisory and/or management responsibility are responsible for carrying out the purpose of this Policy by:

- Maintaining a high standard of personal conduct in dealing with all employees and all other persons.
- Ensuring that all employees are advised of their rights and responsibilities under this policy and the courses of action are open to them.
- Providing opportunities for education and training related to unlawful workplace harassment to all employees under their supervision.
- Taking immediate action to report or deal with alleged incidents of unlawful workplace harassment that come to their attention, regardless of a complaint having been made.

Responsibilities of all Judicial Branch Employees

All employees are responsible for:

- Becoming fully informed of the provisions of the unlawful workplace harassment policy and of the nature of unlawful workplace harassment.
- Treating all persons in the workplace in a manner that is free of unlawful workplace harassment.
- Changing behavior when given indications that it is offensive or harassing to others.
- Taking appropriate action, where possible, when subjected to unlawful workplace harassment.
- Cooperating fully with those responsible for dealing with a complaint of harassment.

Redress /Grievance Procedures

A person who believes he/she is being subjected to unlawful workplace harassment should take steps without delay to have the problem resolved. A complainant should confront the harasser and make it known that the behavior is unwelcome. It is not, however, required that a complainant confront an alleged harasser in order to make a complaint of unlawful workplace harassment.

Any person who feels he/she has been subjected to such unlawful workplace harassment may file a complaint using the following procedure:

- (1) Report any misconduct to your immediate supervisor unless he/she is involved in the misconduct. If your immediate supervisor is involved in the misconduct, then report the misconduct to the hiring authority; and /or
- (2) Report any alleged misconduct to the EEO Officer/Employee Relations Specialist in the Human Resources Division of the Administrative Office of the Courts.

It is recommended that the complainant make note of the details of the harassment, including:

- the time, date, place;
- the names of any witnesses or others affected; and
- any attempts to resolve the situations.

These records are very important if the problem persists, or if management intervention is needed.

A prompt and impartial investigation will be made of all cases alleging unlawful workplace harassment based on presented facts surrounding the misconduct.

In addition to the procedures in this policy, a complaint may be filed with the Equal Employment Opportunity Commission (EEOC); or civil or criminal legal action may be taken. When the person complained of is a judge, a complaint may be filed with the Judicial Standards Commission. When the person complained of is an attorney, a complaint may be filed with the North Carolina State Bar. When the person complained of is a District Attorney, Public Defender, Clerk of Superior Court or Magistrate, a proceeding may be commenced to have the person removed from office.

Corrective Action

In responding to a complaint of harassment by a Judicial Branch hiring authority or employee of a hiring authority, the EEO Officer/Employee Relations Specialist of the Administrative Office of the Courts may:

- meet with the complainant;
- investigate the situation; and
- recommend appropriate remedial action including suspension or termination.