Supreme Court of Pennsylvania
Unified Judicial System of Pennsylvania

Policy on Non-Discrimination and Equal Employment Opportunity

The Supreme Court of Pennsylvania declares that it is the policy of the Unified Judicial System of Pennsylvania (UJS) to ensure that all individuals having business with the UJS are treated in a dignified, civil, respectful, and non-discriminatory manner.

This policy prohibits all forms of discrimination and harassment in a Court Facility (defined as "Any building or office serving as the workplace for Personnel of the System, Supreme Court Boards and Committees, and/or Related Staff; and any UJS-related building or office in which Court Users conduct business with the UJS"), and applies to the following:

Personnel of the System – defined in 42 Pa.C.S.A. § 102 as "Judicial officers, personal staff, administrative staff, and central staff."

Supreme Court Boards and Committees – includes all staff and appointed members of boards, committees and court-related panels appointed by the Supreme Court of Pennsylvania, including, but not limited to, the following - Board of Law Examiners, Continuing Legal Education Board, Disciplinary Board, Interest on Lawyers Trust Account Board, Minor Judiciary Education Board, Pennsylvania Lawyers Fund for Client Security Board, Interbranch Commission for Gender, Racial and Ethnic Fairness, Investment Advisory Board, Appellate Court Procedural Rules Committee, Civil Procedural Rules Committee, Committee on Rules of Evidence, Criminal Procedural Rules Committee, Domestic Relations Procedural Rules Committee, Juvenile Court Procedural Rules Committee, Minor Court Rules Committee, Orphans' Court Procedural Rules Committee.

Related Staff – defined in 42 Pa.C.S.A. § 102 as "All individuals employed at public expense who serve the UJS, but the term does not include Personnel of the System". Those who serve the UJS include district attorneys, public defenders, sheriffs and other officers serving process or enforcing orders, registers of wills, prothonotaries, clerks of courts, clerks of the orphan's court division, coroners, jury commissioners, probation officials, and personnel of all of the foregoing.

Court Users – includes, but is not limited to, attorneys, applicants for employment, litigants, witnesses, jurors, and court volunteers.

The Supreme Court of Pennsylvania is committed to the principles of equal employment opportunity to ensure legal and appropriate hiring and employment practices, and to promote public confidence in the fairness and integrity of the judicial system and the judicial process. It is, therefore, the policy of the Supreme Court that there shall be no discrimination because

of race, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, or religion by any Personnel of the System, Supreme Court Boards and Committees, or Related Staff in any employment-related action (e.g., hiring, promotion, terms or privileges of employment, etc.), or by any Personnel of the System, Supreme Court Boards and Committees, Related Staff or attorney in any court-related action.

Accordingly, all judicial officers, managerial and supervisory Personnel of the System, and Supreme Court Boards and Committees shall ensure adherence to and compliance with this Policy and the procedures intended to facilitate its implementation and administration.

Prohibition Against Discrimination and Harassment

Discrimination and harassment because of race, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, or religion are prohibited. Such discrimination and harassment constitute an abuse of authority that will not be tolerated by the UJS. Further, such discrimination and harassment constitute misconduct, warranting appropriate disciplinary action. All judicial officers, managerial and supervisory Personnel of the System, and Supreme Court Boards and Committees shall ensure adherence to, and compliance with, this Policy.

1. Prohibition Against Discrimination

Under this Policy, discrimination includes actions by an individual or organization that cause an individual or a group of individuals to be denigrated or treated less favorably than another person or group because of one's race, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, or religion. Such discriminatory conduct may include, but is not limited to, actions relating to the following:

1. Recruitment and hiring by Personnel of the System, Supreme Court Boards and Committees, or Related Staff; or
2. Provision of salary, benefits, or other terms or conditions of employment by Personnel of the System, Supreme Court Boards and Committees, or Related Staff; or
3. Provision of training and other education opportunities by Personnel of the System, Supreme Court Boards and Committees, or Related Staff; or
4. Promotions, transfers, discharge or other employment actions by Personnel of the System, Supreme Court Boards and Committees, or Related Staff; or
5. Any matter relating to the judicial process by Personnel of the System, Supreme Court Boards and Committees, Related Staff or attorneys.

2. Prohibition Against Harassment

a. Sexual Harassment

Sexual harassment is sex discrimination. Equal Employment Opportunity Commission (EEOC) guidelines define sexual harassment as unwelcome sexual attention, sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature where:

1. The submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
2. The submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment does not refer to socially acceptable behavior or occasional compliments of a socially acceptable nature. It refers to behavior that a reasonable person could and does consider unwelcome or personally offensive. Sexual harassment involves improper behavior or requests that establish improper *quid pro quo* workplace requirements of a sexual nature, or which otherwise create a hostile work environment for a reasonable person of that gender. Types of sexual harassment include:

1. *"Quid Pro Quo"* Harassment – Is when an individual in a position of authority demands sexual consideration in exchange for the promise of a job, certain job benefits such as raises or promotions, or the promise of continued employment.
2. "Hostile Work Environment" Harassment – Is when unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature create an atmosphere which unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment for any individual.

Sexual harassment may take different forms including, but not limited to, the following examples.

1. *Verbal:* Sexually explicit language, sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions or threats.
2. *Non-Verbal:* Display of sexually suggestive objects or pictures, commentaries, suggestive or insulting sounds, leering, whistling, or obscene gestures.
3. *Physical:* Unwanted physical contact, or the threat of unwanted physical contact, including offensive touching, un-welcomed sexual intercourse, sexual assault and other forms of physical contact of a sexual nature.

b. Racial and Other Harassment

Under this Policy, racial and other harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of that individual's race, color, sexual orientation, gender identity or expression, national origin, age, disability, or religion. Harassing conduct may include, but is not limited to, the following:

1. *Verbal*: Epithets, slurs, stereotyping, or denigrating jokes.
2. *Non-Verbal*: Display of written or graphic materials that denigrate or show hostility or aversion toward an individual or group in such a manner as to be readily viewed by others.
3. *Physical*: Threatening, intimidating, or hostile acts.

Prohibition Against Retaliation

Retaliation in any form against any person who complains about harassment or discrimination, who files a harassment or discrimination complaint, or who cooperates with, or assists in, the investigation of such complaints is prohibited under this Policy. Retaliation constitutes an abuse of authority, and will not be tolerated. Retaliation by any Personnel of the System, Supreme Court Boards and Committees, or Related Staff will be considered misconduct warranting disciplinary action. All judicial officers, managerial and supervisory Personnel of the System, and Supreme Court Boards and Committees shall ensure adherence to and compliance with this Policy.

Charges of retaliation will be viewed as separate and distinct from the original complaint or action which precipitated the alleged retaliation and may form the basis for a new complaint. Retaliation may result in disciplinary action even though the original harassment or discrimination complaint was determined to be unfounded and dismissed.

Compliance and Reporting Responsibilities

All Personnel of the System, Supreme Court Boards and Committees, and Related Staff are expected to comply with this Policy, and all judicial officers, managerial and supervisory Personnel of the System, and Supreme Court Boards and Committees are obligated to take appropriate measures to ensure that prohibited conduct does not occur, or is properly reported, if observed.

Personnel of the System and Supreme Court Boards and Committees who engage in any form of prohibited discrimination or harassment within a Court Facility may be subject to disciplinary action.

Related Staff who serve the UJS and who engage in any form of prohibited discrimination or harassment within a Court Facility will be reported to the chief official in their Related Staff offices for appropriate review and action. With respect to violations of this UJS Policy by

Related Staff, the Supreme Court expects each Related Staff office to take discrimination and harassment complaints very seriously and to properly investigate and adjudicate such complaints.

Any Personnel of the System, Supreme Court Boards and Committees, Related Staff, or Court Users who feel they have been subjected to, or have observed, any form of discrimination or harassment in any judicial process or Court Facility are urged to report such discrimination or harassment in accordance with the published UJS Non-Discrimination and Equal Employment Opportunity Complaint Procedures which are posted as a companion document to this Policy.

Any Personnel of the System, Supreme Court Boards and Committees, Related Staff or Court Users who do not have access to these complaint procedures may obtain a copy of these procedures from their local personnel office, AOPC Human Resources at 717-231-3309, or the UJS Website at www.pacourts.us**.**

Judicial officers, managerial and supervisory Personnel of the System, and Supreme Court Boards and Committees who observe, or have reason to believe that discrimination or harassment has occurred in a Court Facility, must (1) take immediate action to terminate any ongoing harassment/discrimination if they are reasonably able to do so; or (2) immediately report such harassment/discrimination, if possible, as described in the UJS Non-Discrimination and Equal Employment Opportunity Complaint Procedures referenced above.

Filing Complaints under This Policy

The UJS Non-Discrimination and Equal Employment Opportunity Complaint Procedures accompanying this Policy offer guidance as to how to file complaints of alleged harassment or discrimination as described in this Policy. Specific procedures have been created for Personnel of the System, Supreme Court Boards and Committees, and Related Staff based on their organizational entity. Separate procedures have been created for Court Users doing business with the UJS in a Court Facility. Complaints should be filed with the office designated in each procedure document either by phone, by email, or by using the Non-Discrimination Plan Complaint Form available on the UJS website at www.pacourts.us.

If the appropriate procedures are not immediately available, complainants may obtain a copy of these procedures from their local personnel office, AOPC Human Resources at 717-231-3309, or the UJS Website at www.pacourts.us.

Investigation and Adjudication of Complaints

All complaints alleging harassment or discrimination will be fully investigated and adjudicated by duly designated authorities of the UJS. Such authorities are identified in the complaint procedures which are posted as a companion document to this Policy.

Disciplinary or Remedial Actions

Violations of this Policy may result in disciplinary action as prescribed by the appropriate policies, which govern the behavior and performance of Personnel of the System, Supreme Court Boards and Committees, and Related Staff. In addition to such discipline, appropriate remedial actions will be taken by the employing authority to (1) remedy the instant complaint, and (2) prevent future violations.

Responsibility to Monitor the Implementation and Enforcement of this Policy

For UJS offices employing Personnel of the System and Supreme Court Boards and Committees, the AOPC shall undertake those measures necessary to properly monitor compliance with this Policy through the following actions:

1. Develop and promote policies and procedures designed to ensure equal employment opportunity and fair and non-discriminatory treatment of the protected classes listed in this Policy.
2. Develop the administrative policies and procedures needed to ensure that alleged violations of this Policy can be appropriately investigated on a timely basis.
3. Collect data related to the hiring and employment practices of each UJS office employing Personnel of the System and Supreme Court Boards and Committees and conduct related audits of equal employment opportunity and non-discrimination practices.
4. Collect and maintain data/statistics relating to the number, nature, and disposition of complaints filed under this Policy.
5. Work with each UJS office employing Personnel of the System and Supreme Court Boards and Committees to oversee the development of education and training opportunities and materials designed to promote and ensure proper adherence to these policy guidelines.

For those offices employing Related Staff, the Supreme Court expects each office to take appropriate steps to monitor and enforce this Policy through 1) the development of administrative policies and procedures, 2) the collection of data and statistics, and 3) the development of education and training opportunities and materials.

Penalties for Misconduct

Any Personnel of the System or Supreme Court Boards and Committees who have been found to have violated this Policy, impeded the investigation of any complaint filed under this Policy, or retaliated against individuals who have provided evidence or have otherwise cooperated with any investigation of a complaint filed under this Policy, may be subject to appropriate remedial or disciplinary action up to and including discharge, as provided by the policies governing their employment with the UJS.

Any Related Staff serving the UJS who have been reported to officials in their respective offices for appropriate review and action and have been found to have violated this Policy, impeded the investigation of any complaint filed under this Policy, or retaliated against individuals who have provided evidence or have otherwise cooperated with any investigation of a complaint filed under this Policy, may be subject to appropriate remedial or disciplinary actions, as provided by the policies of their respective offices.

The Supreme Court expects each Related Staff office serving the UJS to take such violations very seriously and to apply appropriate remedial or disciplinary actions.

Any judicial officer or attorney who - after proper investigation by the appropriate authority - has been found to have violated this Policy, impeded the investigation of any complaint filed under this Policy, or retaliated against individuals who have provided evidence or have otherwise cooperated with any investigation of a complaint filed under this Policy, may be subject to appropriate remedial or disciplinary action by the Disciplinary Board (in the case of attorneys) or the Court of Judicial Discipline (in the case of judicial officers.)

Exclusion of Judicial Proceedings and the Judicial Decision-Making Process

This Policy does not apply to a judicial officer's or attorney's consideration of, or reference to, a protected class as referenced above, when such consideration or reference is appropriate under the law and is relevant to an issue in a judicial proceeding, to the judicial decision-making process or to the proper administration of justice.

Distribution of Policy and Procedures

Personnel of the System - A copy of this Policy and accompanying complaint procedures will be provided initially to all current employees and will be posted prominently in visible locations within Court Facilities. Thereafter, a copy of this Policy, with accompanying complaint procedures, will be distributed to all new Personnel of the System upon their entry into judiciary service.

Supreme Court Boards and Committees – Copies of this Policy and accompanying complaint procedures will be provided initially to the administrator of each Supreme Court Board and Committee for distribution to all current employees and appointed members and for posting prominently in visible locations within Court Facilities. Thereafter, the administrator of each Supreme Court Board and Committee will distribute a copy of this Policy, with accompanying complaint procedures, to all new staff and appointed members upon their entry into judiciary service or appointment to a board/committee.

Related Staff – A copy of this Policy and accompanying complaint procedures will be provided to the chief official in each Related Staff office for duplication and distribution to all current employees and new Related Staff upon their entry into service.

Court Users – A copy of this Policy and accompanying complaint procedures will be prominently posted in a location visible to all Court Users within each Court Facility.

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