

ANTI-HARASSMENT POLICY OF THE SUPREME COURT OF GEORGIA

1. INTRODUCTION

The Supreme Court of Georgia is an equal opportunity employer and is committed to recruiting, hiring, training, and promoting employees without regard to race, color, religion, national origin, sex, age, disability, or any other classification protected by federal or state law. The Court is committed to providing a fair and equitable workplace where everyone is respected and valued, and to maintaining a workplace environment free of harassment, sexual or otherwise.

The purpose of this policy is to state the Supreme Court's commitment to providing a work environment that is free of sexual and other harassment, to inform employees of the nature of sexual harassment, and to establish a procedure for submitting complaints for investigation and for resolving those complaints.

2. SCOPE

This policy applies to all judicial and nonjudicial employees, including Justices, law clerks, staff attorneys, central staff attorneys, administrative and judicial assistants, fiscal office employees, information technology employees, and to employees of the office of Bar Admissions, the office of the Clerk of the Supreme Court, and the office of the Reporter of Decisions. This policy governs the process of filing, investigating, and resolving a harassment complaint.

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3. POLICY STATEMENT

Unlawful harassment will not be tolerated by the Supreme Court, and the Supreme Court specifically recognizes that sexual harassment is illegal, unprofessional, and unacceptable.¹ Any Court employee who has been found to engage in harassing behavior will be subject to disciplinary action, up to and including termination.

The Supreme Court also will not tolerate retaliation for having filed a sexual or other unlawful harassment complaint or for having provided information in a harassment investigation. Any employee who has engaged in acts of retaliation or who is untruthful in reporting a harassment claim or responding to an investigation will be subject to disciplinary action, up to and including termination.

4. THE JUSTICES' OBLIGATIONS UNDER THE CODE OF JUDICIAL CONDUCT

The policy outlined in this document applies to the Justices of the Supreme Court. It should be noted, however, that Justices are already prohibited from engaging in harassment, and have a duty to prevent court staff and attorneys (among others) from engaging in harassment. Specifically, Georgia's Code of Judicial Conduct makes clear that

[a] judge shall not, in the performance of judicial duties, by words or conduct manifest

¹ Although this policy focuses on claims of sexual harassment, it also includes all forms of unlawful harassment.

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bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon age, disability, ethnicity, gender or sex, marital status, national origin, political affiliation, race, religion, sexual orientation, or socioeconomic status.

Rule 2.3 (B) (emphasis supplied). Moreover,

Judges shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

See *id.* Additionally,

Judges shall *require* lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including, but not limited to, age, disability, ethnicity, gender or sex, marital status, national origin, political affiliation, race, religion, sexual orientation, or socioeconomic status, against parties, witnesses, lawyers, or others.

See Rule 2.3 (C) (emphasis in original).

However, because the Judicial Qualifications Commission (“JQC”) has constitutional authority to “discipline, remove, and cause involuntary retirement of judges as provided by [Article VI of the

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Georgia Constitution],” see Ga. Const. Art. VI, Sec. VII, Par. VI, it appears that individual courts cannot formally discipline judges for a violation of that court’s anti-harassment policy. The practical result is that the primary recourse against a judge for allegations of sexual harassment or other unlawful harassment in violation of the Code of Judicial Conduct should be sought through the JQC. Nonetheless, this Court believes that this policy is important for setting the tone for the work of the Court.

5. DEFINITIONS

(a) **Sexual Harassment:**

Sexual advances; requests for sexual favors; and other unwelcome verbal, written, electronic, or physical conduct of a sexual nature from another person, including, but not limited to, when:

- i. Submission to such conduct is made a condition of employment, either explicitly or implicitly;
- ii. Submission to or rejection of such conduct is used as the basis for employment decisions;
- iii. 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.

(b) **Sexually Harassing Conduct:**

Examples of conduct that may constitute sexual harassment include, but are not limited to, the following:

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- i. Unwelcome physical touching;
- ii. Sexual comments of a provocative or suggestive nature;
- iii. Sexually suggestive looks or gestures;
- iv. Sexual jokes, printed material, or innuendoes intended for and directed to another employee;
- v. Making acceptance of sexual conduct, sexual advances, or requests for sexual favors of any nature a condition for employment, employment decisions, or continued employment (pressure for sexual favors).

Generally speaking, however, asking an employee to perform tasks within the scope of his or her employment — including, but not limited to, reviewing documents and photographs in an appellate record — does not constitute harassment.

Conduct occurring after business hours or off Court premises may constitute sexual harassment or sexually harassing conduct.

(c) Harassment (Non-sexual):

Verbal, written (including electronically generated), or physical conduct that disparages or shows hostility or aversions toward a person because of that person's race, color, religion, national origin, sex, age, disability, or any other classification protected by federal or state law. Harassment is action that creates an intimidating, hostile, or offensive work environment or unreasonably interferes with a person's work performance.

(d) Harassing Conduct (Non-sexual):

Examples of conduct that may constitute harassment include, but are not limited to, the following: epithets, slurs, negative

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stereotyping, or threatening, intimidating, or hostile acts – including jokes – that relate to race, color, religion, national origin, sex, age, disability, or any other classification protected by federal or state law. Harassing conduct may also include written or graphic material that is displayed on walls, bulletin boards, computers, or other locations or circulated in the work place that disparages or shows hostility or aversion toward an individual or group because of these characteristics.

Conduct occurring after business hours or off Court premises may constitute harassment or harassing conduct.

(e) Retaliation:

Any unfavorable employment action taken or unfavorable employment condition created that is directed toward an employee because he or she reported an allegation of harassment or provided candid information during an investigation of alleged harassment or retaliation.

6. PROCEDURE

(a) General Requirements

All supervisors, including Justices, are required to report any act of sexual or unlawful harassment. All employees are required to report any act of sexual or unlawful harassment they observe and are strongly encouraged to report acts of sexual or unlawful harassment they personally experience.

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All reports of sexual or unlawful harassment will be investigated quickly, and consistent with this policy and to the extent possible, confidentially. Only those people directly involved in the matter will be told about the complaint during the pending investigation. Anyone informed of the alleged offense must maintain confidentiality. Information will be released otherwise only as required by law.

(b) Ensuring Policy Awareness

All employees are required, as a condition of their employment with the Supreme Court, to read and become familiar with the Supreme Court's policy regarding harassment, which will be explained to new employees at orientation and to current employees periodically. New employees will initial and sign an acknowledgment of the Court's policy at orientation, and the Director of Fiscal Services will require all current employees to initial and sign an acknowledgment of the Court's policy. Justices will also read and become familiar with the Supreme Court's policy regarding harassment, and will initial and sign an acknowledgment of the Court's policy.

The harassment policy is available on the Court's shared computer drive.

Justices and employees shall participate in anti-harassment training at least once every year.

Supervisors, including Justices, shall take ongoing proactive steps to ensure that their work environments are free from all types of harassment and to educate and counsel their staff about appropriate conduct.

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(c) Reporting Harassment

All claims of harassment or retaliation shall be reported to the Designated Justice(s), the Clerk of Court, the Director of Fiscal Services,² or any other person the Court designates and makes known to the Justices and employees covered by this policy. Alternatively, claims of harassment or retaliation may be reported to supervisors, who shall immediately relay the report to the Designated Justice(s), the Clerk of Court, or the Director of Fiscal Services.

As of January 1, 2020, the Designated Justices are Justice Sarah Warren and Justice Charlie Bethel.

Consistent with the requirements set forth above in Section 6 (a), all Justices and employees are required to report events of alleged harassment or retaliation against themselves or others as outlined below. Employees are encouraged to submit complaints in writing, but reports may also be submitted orally.

Supervisors, including Justices, who have reason to believe that harassment or retaliation may exist in their offices or any other office shall report that activity immediately in accordance with this policy. Supervisors, including Justices, who knew or clearly should have known of incidents of sexual harassment and failed to take appropriate action in accordance with the policy shall be disciplined. The process for filing complaints and for investigation and resolution of complaints shall be free from bias and intimidation.

² The Director of Fiscal Services for the Supreme Court also oversees Human Resources.

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i. Reporting Procedure: Method #1

A Justice or employee who is subjected to sexual harassment or who observes an incident of sexual harassment may — but is not required to — communicate directly with the alleged offender to identify the harassment, express objection to it, and make clear that the conduct is unwelcome and request that it stop. This initial communication may be verbal.

As an alternative, a Justice or employee who is subjected to sexual harassment or who observes an incident of sexual harassment may request that a Designated Justice, the Clerk of Court, or the Director of Fiscal Services communicate directly with the alleged offender to identify the harassment, express objection to it, and make clear that the conduct is unwelcome and request that it stop. This initial communication may be verbal.

If this initial communication does not result in the cessation of the sexual harassment or other offending behavior, then the Justice or employee who has either observed an incident of sexual harassment or who was subjected to sexual harassment shall utilize Reporting Method #2.

If the subject of the initial communication is a Justice, and the Justice does not stop the sexual harassment or unlawful behavior, then a referral should be made to the JQC, consistent with Section 6 (f) below.

If a Justice or employee utilizes Reporting Method #1, he or she shall inform a Designated Justice, the Clerk of Court, or the Director of Fiscal Services that he or she has done so, and whether that method was successful. The Designated Justice(s), the Clerk of Court, or the

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Director of Fiscal Services shall memorialize that information in writing, to be kept by the Clerk of Court as outlined in this policy.

A Justice or employee who is subjected to sexual harassment or who observes an incident of sexual harassment is not required to utilize Reporting Method #1 before utilizing Reporting Method #2.

ii. Reporting Procedure: Method #2

A Justice or employee who is subjected to sexual harassment or who observes an incident of sexual harassment files with a Designated Justice, the Clerk of Court, or the Director of Fiscal Services a written complaint about an incident of sexual harassment personally suffered or observed.

If the Justice or employee reporting under Reporting Method #2 is, for any reason, uncomfortable making a complaint in writing, he or she shall instead make a verbal report to a Designated Justice, the Clerk of Court, or the Director of Fiscal Services, who shall transcribe the verbal report into writing. The Designated Justices, the Clerk of Court, and the Director of Fiscal Services shall participate in training that will prepare them to receive and transcribe verbal complaints and to investigate either written or verbal complaints of sexual harassment.

All complaints, whether written or verbal, should include the following:

1. Name(s) of the individual(s) engaging in sexually harassing or otherwise harassing conduct;

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2. Description of the sexually harassing or other harassing conduct, including the date(s) on which it occurred, the frequency of the conduct, the location(s) of the conduct, and other information about the context in which it occurred;
3. Names of all individuals with knowledge of the behavior, including any persons to whom the behavior has already been reported.

If a complaint does not sufficiently support allegations of harassment or retaliation, the investigator may request additional information.

(d) Investigations

Upon receipt of a written or verbal complaint of harassment or retaliation, the Designated Justices, the Clerk of Court, or the Director of Fiscal Services shall notify the Chief Justice and the Director of Fiscal Services.

The Director of Fiscal Services, in consultation with the Chief Justice, shall then:

- i. Acknowledge in writing receipt of the complaint;
- ii. Inform the alleged harasser of the complaint;
- iii. Investigate the facts and circumstances of all claims of harassment;
- iv. Prepare a report of findings;
- v. Present the report to the Chief Justice and, if applicable, to the employee's supervisor (unless the supervisor is the

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subject of the complaint), and make a recommendation about the corrective action (if any) to be taken.

During the course of an investigation, the Chief Justice (or his or her designee) may suspend, transfer, or reassign personnel to prevent further harassment or to facilitate the investigation. Unless otherwise directed in writing by the Chief Justice, no disciplinary action under this policy will be offered or taken against the alleged violator until an investigation has been completed. For emergency situations of a severe nature, the Chief Justice (or a designee, after consultation with the Chief Justice) will take appropriate actions to protect the alleged victim or to deter the alleged violator from any further harassment. If necessary, protective measures will be taken for the safety of the parties and any other affected employees.

No person accused of harassment shall be involved in the investigation of a complaint about his or her own conduct.³

The Chief Justice or his or her designee, in consultation with the Director of Fiscal Services and the relevant employee's supervisor, will determine the appropriate action to be taken.

(e) Confidentiality

The confidentiality of the parties involved in a complaint or investigation will be maintained to the extent possible without compromising the thoroughness of the investigation. However, after

³ If the Chief Justice is the subject of a complaint, then the Director of Fiscal Services shall fulfill the requirements of this section in consultation with the Presiding Justice. If the Director of Fiscal Services is the subject of a complaint, the Clerk of Court shall fulfill the requirements of this section instead.

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consultation with the Chief Justice, the Designated Justice(s), the Clerk of Court, and the Director of Fiscal Services are authorized to report allegations of unlawful harassment to law enforcement and to the JQC if they are presented with evidence of a criminal act, or to law enforcement when they are otherwise obligated by law to do so.

The Chief Justice or his or her designee may consult with legal counsel as needed.

(f) Corrective Action

If an investigation reveals a violation of this policy, prompt corrective action will be taken to stop the discrimination, harassment, or retaliation and to prevent its recurrence. Actions taken will be based on the individual circumstances of the situation and may include counseling, sanctions, termination, or other discipline. An employee may be subjected to disciplinary action for violations of this policy, even if the conduct is not a violation of state or federal law.

Disciplinary actions will be rendered as soon as reasonably practical. A written report summarizing the complaint, investigation, results, and discipline, if any, will be prepared by the investigator and maintained in a separate file by the Clerk of Court. The Director of Fiscal Services or another person designated by the Chief Justice will notify the complainant and alleged violator that the investigation has been completed and will report the results of the investigation.

If an investigation does not support a finding that this policy has been violated, the person who made the report and the person

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against whom an allegation was made shall be so advised. Both will be advised that retaliation for making the report is prohibited.

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EMPLOYEE ACKNOWLEDGMENT OF ANTI-HARASSMENT POLICY

I acknowledge that I have read the Supreme Court of Georgia's policy regarding harassment and understand that incidents of harassment, substantiated by investigation, violate this policy and are grounds for disciplinary action.

I also understand that retaliation for having filed a sexual or other unlawful harassment complaint, or for having provided information in a harassment investigation, violates this policy and is grounds for disciplinary action.

NAME (PRINT OR TYPE)

SIGNATURE

DATE

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