IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Administrative Order No. 2018-16-Gen

ADMINISTRATIVE ORDER ADOPTING SEXUAL HARASSMENT POLICY AND COMPLAINT PROCEDURES FOR COURT EMPLOYEES AND OTHERS

(a) Pursuant to Florida Rule of Judicial Administration 2.215 (b) (1), the Chief Judge is "the administrative officer of the courts within [this] circuit and shall, consistent with branch-wide policies, direct the formation and implementation of policies and priorities for the operation of all courts and officers within [this] circuit."

(b) The creation and implementation of uniform procedures for court personnel and others to report any alleged occurrence(s) of sexual harassment is necessary to fulfill the Seventeenth Judicial Circuit's longstanding policy to make the workplace free of sexual harassment.

(c) Pursuant to the authority vested in the Chief Judge by Florida Rule of Judicial Administration 2.215, it is hereby **ORDERED**:

(1) The Seventeenth Judicial Circuit Sexual Harassment Policy and Complaint Procedures, attached hereto as Attachment "A" and incorporated herein, is hereby adopted and shall be implemented immediately in the Seventeenth Judicial Circuit.

(2) This policy shall apply to all court personnel of the Seventeenth Judicial Circuit without regard to position funding, i.e., county, state, or other payroll classification, and contractors or vendors of the Circuit depending on the Circuit's control over and business relationship with such contractor or vendor.

(3) The Sexual Harassment Policy and Procedures for Sexual Harassment Complaint against Justice and Judges, adopted and implemented in the Seventeenth Judicial Circuit pursuant to Administrative Order 2018-15-Gen shall govern the reporting of and procedures for handling complaints of sexual harassment against judges.

(4) The Office of the Trial Court Administrator shall, as soon as practicable, distribute the attached policy to all court personnel of the Seventeenth Judicial Circuit and obtain signed confirmations of receipt of said policy from all employees, excluding constitutional officers.

(5) This Administrative Order supersedes and vacates Administrative Order 2018-6-Gen.

DONE AND ORDERED in Chambers, Fort Lauderdale, Broward County, Florida, this 23rd day of February, 2018.

/s/ Jack Tuter
Jack Tuter, Chief Judge

ATTACHMENT "A"

SEVENTEENTH JUDICIAL CIRCUIT
SEXUAL HARASSMENT POLICY AND COMPLAINT PROCEDURES

I. POLICY

It is the policy of the Seventeenth Judicial Circuit to make the workplace free of sexual harassment or sexual misconduct. Sexual harassment occurs if there are unwelcome sexual advances; unwelcome requests for sexual favors; or unwelcome verbal or physical conduct of a sexual nature from or involving an employee's supervisor(s), peer(s), subordinates or other persons in contact with an employee during the course of the conduct of the employee's business when:

1. Submission to such conduct is either explicitly or implicitly a term or condition of employment; or
2. 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 interfering with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

Sexual misconduct is any behavior of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship, and is not necessarily actionable sexual harassment.

The Seventeenth Judicial Circuit condemns any sexual harassment or sexual misconduct and advances the position that anyone in contact with the Seventeenth Judicial Circuit should feel empowered to bring any such inappropriate activity to the attention of all proper authorities. Anyone authorized to investigate or pursue a complaint of sexual harassment or sexual misconduct hereunder must always maintain an open-door policy that fosters the free expression of any complaint. The Chief Judge or Chief Judge's designee has the authority to take any administrative action necessary to protect the complainant from further sexual harassment or sexual misconduct and from retaliation related to a complaint hereunder.

It is the policy of the Seventeenth Judicial Circuit that complaints of sexual harassment or sexual misconduct will be treated seriously and acted upon promptly. Such conduct, whether committed (1) by or against court employees or applicants for employment, or (2) by contractors or vendors of the Court against court employees or other contractors or vendors of the Court, is strictly prohibited and will not be tolerated. Any court employee engaging in such prohibited conduct will be subjected to disciplinary action up to and including termination of employment. Complaints against non-employees of the Seventeenth Judicial Circuit, including contractors or vendors of the Court, will be investigated and addressed based on the Circuit's control over and business relationship with the alleged harasser.

II. NOTIFICATION

a. Complaints Against Judges

Complaints against a judge should be reported and addressed as provided in the Sexual Harassment Policy and Procedures for Sexual Harassment Complaints against Justices and Judges, adopted and implemented in the Seventeenth Judicial Circuit pursuant to Administrative Order 2018-15-Gen.

b. Complaints Against Co-Employees and Supervisors

Complaints against co-employees should be reported to the complainant's immediate supervisor. If the complainant believes that reporting the conduct of co-employees to his or her supervisor would be futile, or if the employee has a complaint against his or her supervisor, the employee should report the conduct to the Human Resources Chief of Personnel. The individual to whom the complaint is made shall immediately report the complaint to the Trial Court Administrator, who will in turn notify the Chief Judge. The Chief Judge will appoint persons to investigate all complaints against employees. Such persons may include the General Counsel, Chief Deputy Court Administrator, and/or the Human Resources Chief of Personnel.

The appointed person(s) shall investigate all complaints under this section promptly and thoroughly. The investigation may include interviews of the complainant and alleged harasser to ascertain relevant facts and circumstances. Such interviews, if deemed necessary, shall occur within five (5) days of the submission of the complaint, where feasible. If the complainant does not divulge names or details of the incident(s), the appointed person(s) will rely upon information that is available, to the extent possible. After due consideration of all available information, the appointed person(s) shall expeditiously report the nature and facts of the complaint to the Chief Judge and Trial Court Administrator. The Chief Judge and/or Trial Court Administrator shall make a determination based upon the complaint and the report, and shall take appropriate corrective action, which may include disciplinary action up to and including termination of employment.

If any person has difficulty writing out the complaint and the person requests assistance in reducing the complaint to writing or if the person prefers to submit the complaint orally, the Chief Judge, Trial Court Administrator, or Human Resources Chief of Personnel, as appropriate, shall designate a person, who will not be involved in the investigation or adjudication of the complaint, to aid the person in reducing the complaint to writing.

c. Complaints against the Trial Court Administrator

Complaints against the Trial Court Administrator shall be brought directly to the attention of the Chief Judge. The Chief Judge shall determine the procedure for addressing the complaint, as specified in Section II.b. above.

Upon completion of any investigation, the Chief Judge shall make a determination based thereon and shall take appropriate corrective action.

d. Complaints against Contractors or Vendors of the Court

This section applies to complaints made by: (1) court employees against contractors or vendors of the court; (2) contractors or vendors of the court against court employees; and (3) contractors or vendors of the court against other contractors or vendors of the court.

Complaints by court employees against contractors or vendors of the court should be reported to the complainant's immediate supervisor, who will in turn notify the Trial Court Administrator and Chief Judge. If the court employee believes that reporting the conduct to his or her supervisor would be futile, the employee should report the conduct to the Trial Court Administrator, who in turn will notify the Chief Judge. The Chief Judge shall determine the procedure for addressing the complaint, as specified in Section II.b. above. Complaints by court employees against contractors or vendors of the court will be investigated and addressed based on the Circuit's control over and business relationship with the alleged harasser.

Complaints by contractors or vendors of the court against court employees should be reported to the Trial Court Administrator, who will in turn notify the Chief Judge and the Human Resources Chief of Personnel. The Chief Judge shall determine the procedure for addressing the complaint, as specified in Section II.b. above.

Complaints by contractors or vendors of the court against other contractors or vendors of the court should be reported to the Trial Court Administrator, who will in turn notify the Chief Judge. The Chief Judge shall determine the procedure for addressing the complaint, as specified in Section II.b. above. Complaints by contractors or vendors of the court against other contractors or vendors of the court will be investigated and addressed based on the Circuit's control over and business relationship with the alleged harasser.

e. Student Interns/Volunteers

Student interns or volunteers working for the Seventeenth Judicial Circuit who believe they are the subject of sexual harassment or sexual misconduct may use these complaint procedures, but in all instances, should submit a complaint to their college or university in accordance with school sexual harassment complaint procedures.

III. TIME FOR FILING COMPLAINTS

In order to ensure that Seventeenth Judicial Circuit complaint procedures can be utilized without risk of precluding the filing of a charge of discrimination with state or federal entities, any individual who believes that he or she has been the subject or target of sexual harassment should report such incident within 90 days of the date of occurrence.

IV. DOCUMENTATION AND CONFIDENTIALITY

All information pertaining to a complaint and investigation of sexual harassment or sexual misconduct must be conducted in a professional, confidential, and expeditious manner. Nothing in this Policy guarantees protection from public access other than as provided in Florida or federal law, or court rule.

All records made or received by the Chief Judge or the Chief Judge's designee through use of this Policy and complaint procedures are exempt from public disclosure under Florida Rule of Judicial Administration 2.420. Such records of complaints against employees are exempt until a determination of probable cause is found. Any record of resulting disciplinary action will be maintained in the disciplined employee's personnel file.

Such records of complaints against judges are exempt from public disclosure for the duration of an initial inquiry, formal investigation and resolution of the complaint, and at all times thereafter, unless the records are forwarded to the Judicial Qualifications Commission. If records pertaining to a complaint against a judge are forwarded to the Judicial Qualifications Commission, such records will be confidential under Florida Rule of Judicial Administration 2.420 and rule 23, Rules of the Judicial Qualifications Commission, until any formal charges against the judge are filed by the Investigative Panel of the commission with the Clerk of the Florida Supreme Court.

Records within the possession of any judge or court staff pertaining to a complaint that has been forwarded to the Judicial Qualifications Commission will become public upon formal charges being filed with the clerk of the Florida Supreme Court.

V. PROTECTION FROM RETALIATION

In no case will an employee be disciplined or otherwise retaliated against for opposing sexual harassment or sexual misconduct in the workplace by reporting in good faith any violation of this Policy. However, any employee who is in receipt of a complaint of sexual harassment or sexual misconduct or has knowledge of a violation of this Policy and fails to take action by reporting the matter may be subject to disciplinary action up to an including termination of employment. Any employee who knowingly files a false complaint of sexual harassment or other discrimination against another person shall be subject to disciplinary action up to and including termination of employment.

VI. REFERRAL TO THE FLORIDA COMMISSION ON HUMAN RELATIONS OR THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

This Policy does not preclude the filing of a charge of employment discrimination with the Florida Commission on Human Relations or the Equal Employment Opportunity Commission.

For anyone wishing to file such a complaint, the Florida Commission on Human Relations (FCHR) is located at: 4075 Esplanade Way, Room 110, Tallahassee, Florida 32399. The telephone number for the FCHR is: (850) 488-7082 or 1-800-342-8170.

The United States Equal Employment Opportunity Commission (EEOC) office with jurisdiction over complaints arising in Florida is the Miami District Office located at 100 SE 2nd Street, Suite 1500, Miami, Florida 33131. The telephone number for the EEOC Miami District Office is: 1-800-669-4000.