

THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA  
ADMINISTRATIVE ORDER NO. 10.11

**SEXUAL HARASSMENT POLICY AND PROCEDURES FOR COMPLAINTS AGAINST  
JUDGES**

**WHEREAS**, it is the policy of the Eighth 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 supervisors, peers, subordinates or other persons in contact with an employee during the course of the conduct of the employee's business when:

- a. Submission to such conduct is either explicitly or implicitly a term or condition of employment; or
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual or as the basis for any official action; or
- c. 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; and,

**WHEREAS**, the Eighth Judicial Circuit condemns any sexual harassment or sexual misconduct and advances the position that anyone in contact with the state court system should feel empowered to bring any such inappropriate activity to the attention of all proper authorities, including and especially the Chief Judge of the Eighth Judicial Circuit. Anyone authorized to investigate or pursue a complaint of sexual harassment or sexual misconduct herein must always

maintain an open-door policy that fosters the free expression of any complaint. The Chief Judge 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 herein; and

**WHEREAS**, it is the policy of the Eighth Judicial Circuit that all complaints of sexual harassment or sexual misconduct against any judge within the circuit will be treated seriously and acted upon promptly. The following procedures apply to complaints against judges made by employees, applicants for employment, and, when applicable, attorneys, litigants, or other members of the public. Compliance with these procedures satisfies a chief judge's disciplinary responsibilities under Canon 3D(1) of the Code of Judicial Conduct;

**IT IS ORDERED:**

**NOTIFICATION**

**1.** The Human Resources Manager is appointed as the intake officer responsible for receiving and documenting complaints of sexual harassment or sexual misconduct against judges of this circuit.

**2.** Any employee or applicant for employment with the court who believes that he or she is the subject of sexual harassment by a county, circuit, or senior judge should file a complaint in writing. If any person has difficulty in writing out the complaint, the Chief Judge shall designate a person not involved in the investigation or adjudication of the complaint to aid the complainant in reducing the complaint to writing.

**3.** The complaint may be submitted to any of the following: the Chief Judge or his or her designee; the Trial Court Administrator; or, the Human Resources Manager. If the person receiving the complaint is not the Chief Judge, the person receiving the complaint should forward it to the Chief Judge. Student interns/externs working for the court who believe they are the subject of sexual harassment may use these complaint procedures, but in all instances, should submit a complaint to their college or university in accordance with school harassment complaint procedures.

4. If the Chief Judge is the subject of a complaint, the employee or applicant should file the complaint with the Trial Court Administrator, who will refer the complaint to the chief judge of the judicial circuit within the territory of the First District Court of Appeal having the longest continuous service as chief judge. The chief judge to whom the complaint is referred will assume all complaint and investigation and resolution duties for which the chief judge of this circuit otherwise would be responsible. The chief judge to whom such a complaint is referred also will be responsible for maintaining records pertaining to the complaint.

5. If an employee or applicant chooses not to file a formal complaint, but any person designated in this order to receive complaints has actual knowledge or receives information that a substantial likelihood exists that a judge has engaged in sexual harassment or sexual misconduct, the person may inquire into the matter and take appropriate action.

#### **TIME FOR FILING COMPLAINTS**

6. In order to ensure that the Eighth Judicial Circuit complaint procedure can be utilized without risk of precluding the filing of a charge of discrimination with state or federal entities, an employee or applicant should report an incident of sexual harassment within ninety (90) days of the date of occurrence.

#### **INVESTIGATION**

7. A complaint of sexual harassment or sexual misconduct against a judge will be investigated promptly and thoroughly. If a complaint has been made, the Chief Judge may designate another person to make an initial inquiry into the complaint.

8. The Chief Judge will interview the complainant within five (5) days of the submission of the complaint to ascertain relevant facts and circumstances. If the complainant does not divulge names or details of the incident(s), the Chief Judge will rely upon any information that is available. If another person has been designated to make an initial inquiry into the complaint, such designee will report details of the complaint, including any relevant facts, circumstances, and information to the Chief Judge within ten (10) days of the submission of the complaint.

**9.** If the Chief Judge determines the complaint is unfounded or insufficient to constitute sexual harassment, he or she may decline to pursue any action on the complaint.

**10.** If the Chief Judge determines the complaint is facially sufficient to constitute sexual harassment, the Chief Judge may appoint an investigating officer or officers to formally investigate the complaint, or may take any other action appropriate under the circumstances. If the Chief Judge determines the complaint is insufficient to constitute sexual harassment, but nevertheless indicates potential sexual misconduct, the Chief Judge may take any action appropriate to address the circumstances, including but not limited to appointing an investigating officer or officers to formally investigate the complaint.

**11.** The Chief Judge or investigating officer(s) will interview the complainant, the judge involved, and witnesses, if any, and will review relevant materials. If any investigating officers have been appointed, such persons will submit a written report to the Chief Judge within thirty (30) days of the submission of the complaint for formal investigation.

## **RESOLUTION**

**12.** The Chief Judge, or the chief judge of the circuit to whom the matter has been referred if the Chief Judge is the subject of the complaint, will determine the course of action for internal resolution of the complaint, and may appoint another person, other than the subject of the complaint, to recommend the course of action for internal resolution.

**13.** If the Chief Judge determines the complaint, including any relevant facts, circumstances, and information, is insufficient to constitute sexual harassment, the Chief Judge may attempt to resolve the complaint informally through mutual conciliation by meeting with the complainant and subject judge to discuss a method of resolution, including alternative dispute resolution. In attempting to resolve the complaint, the Chief Judge may counsel or take other appropriate direct action with the judge involved.

**14.** If the complaint and investigation reasonably indicate that the subject judge engaged in activity that constitutes sexual harassment or sexual misconduct, or otherwise raises a

substantial question as to the judge's fitness for office, the Chief Judge will refer the complaint and all written documentation pertaining to the complaint to the Judicial Qualifications Commission.

**15.** To the extent not otherwise prohibited by statute or rule, a written summary of the resolution will be provided to the complainant within a reasonable time after a determination is made and any action pursuant thereto is taken.

#### **DOCUMENTATION AND CONFIDENTIALITY**

**16.** All information pertaining to a complaint of sexual harassment must be documented and maintained by the Chief Judge or the Chief Judge's designee.

**17.** All records made or received by any person pursuant to these complaint procedures are exempt from public disclosure under Florida Rule of Judicial Administration 2.420(c)(3)(A). Such records 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.

**18.** If records pertaining to a complaint are forwarded to the Judicial Qualifications Commission, such records will be confidential under Florida Rule of Judicial Administration 2.420(c)(3)(A) and rule 23(a), Rules of 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.

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

#### **REFERRAL TO THE JUDICIAL QUALIFICATIONS COMMISSION**

**20.** The Judicial Qualifications Commission is responsible for all reported instances of judicial misconduct. These procedures do not preclude the referral of a complaint against a judge at any time by any person to the Judicial Qualifications Commission. If a complaint against a judge

has been referred to the Judicial Qualifications Commission, no further action by the Chief Judge is required.

**21.** For anyone wishing to file such a complaint, the Commission's mailing address is Post Office Box 14106, Tallahassee, Florida 32317. The Commission's Executive Director can be contacted by telephone at (850) 488-1581 or by email at [contact@floridaiqc.com](mailto:contact@floridaiqc.com).

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

**22.** These procedures do not preclude the filing of a charge of employment discrimination with the Florida Commission on Human Relations or the United States Equal Employment Opportunity Commission.

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

**24.** 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, FL 33131. The telephone number for the EEOC Miami District Office is 1-800-669-4000.

This order replaces and supersedes Administrative Order No. 10.11(v1) entitled "Sexual Harassment Policy and Complaint Procedures Against Judges," entered on October 5, 2012.

**ORDERED ON** this 1<sup>st</sup> day of March, 2018.



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Toby S. Monaco, Chief Judge