

FILED

BY:

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA *DY*

IN AND FOR THE COUNTY OF MOHAVE

2018 OCT 31 AM 8:49

AND JIM TINNELL  
SUPERIOR COURT CLERK

IN THE MATTER OF: )

ADMINISTRATIVE ORDER

APPROVING REVISIONS TO SUPERIOR )

2018-26

COURT POLICY AND PROCEDURES )

AND JUDICIAL MERIT RULES )

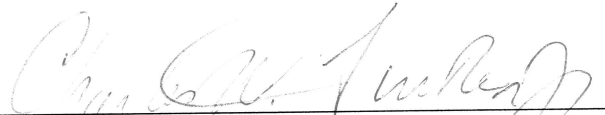
**WHEREAS**, on July 18, 2018, the Arizona Supreme Court issued Administrative Order 2018-65 which revised the Arizona Code of Judicial Administration § 1-304: Discrimination and Harassment requiring the Courts to implement new policy requirements;

**WHEREAS**, it is the desire of the Superior Court to inactivate Judicial Merit System Rule 505, Harassment Prohibited and approve in its place Mohave County Superior Court Policy and Procedure 1.02 Discrimination and Harassment Prohibited to comply with Arizona Supreme Court Administrative Order 2018-65;

**WHEREAS**, the Superior Court has reviewed and modified Superior Court Policy and Procedure 3.01 Chain of Command, Employment of Relatives, Non-Fraternization and Child Labor and Judicial Merit Rule 106, Non-Discrimination;

**IT IS ORDERED**, that Judicial Merit Rule 505 be inactivated and replaced by Superior Court Policy and Procedure 1.02 Discrimination and Harassment Prohibited and the revisions to Superior Court Policy and Procedure, 3.01 Chain of Command, Employment of Relatives, Non-Fraternization and Child Labor and Judicial Merit Rule 106, Non-Discrimination, be adopted effective this date.

DATED 30 day of October, 2018.



Charles W. Gurtler, Jr., Presiding Judge  
Mohave County Superior Court

Original filed with the Clerk of the Superior Court in Mohave County

- A. PURPOSE:** Is to establish and define the Court's policy on illegal discrimination and harassment, and to establish a mechanism through which employees may seek relief from harassing behavior. This policy is also intended to unequivocally establish the Court's opposition to and disapproval of prohibited behaviors falling under its purview. The Court prohibits discrimination, including harassment and retaliation, based on race, color, sex, gender, sexual orientation, age, national origin, ethnicity, disability, political or religious affiliation, veteran's status, genetic information, marital status, socioeconomic status, or any category protected by Federal or State law (these categories are collectively referred to in this policy as "Protected Class").
- B. POLICY OVERVIEW:** All Judicial employees, Division Heads and elected officials, have a right to work in an environment free from discrimination and harassment.
- C. COVERAGE:** This policy shall be effective for all Judicial employees, Division Heads and elected officials, without regard to status or affiliation and shall supersede all existing policies and procedures for courts currently in place in Mohave County. This policy shall supplement provisions in Supreme Court Administrative Order 2018-65 which defines the Arizona Judiciary Discrimination and Harassment Policy.

**D. DEFINITIONS:**

**DISCRIMINATION:** is differing treatment of an individual, involving any term or condition of employment, based on that individual's membership in a Protected Class.

**DIVISION HEAD:** is an elected official, the Court Administrator, Chief Probation Officer, or the Director of Juvenile Court Services.

**HARASSMENT:** is a form of discrimination. It is unwelcome conduct, verbal or physical conduct or any form of communication, that is directed at an individual because of his or her membership in a Protected Class and that is severe or pervasive to create a work environment that is intimidating, hostile, or offensive to a reasonable person.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

1. Verbal harassment includes offensive or unwelcome comments regarding a person's appearance, epithets, slurs, and negative stereotyping related to a person's membership in a Protected Class.
2. Nonverbal harassment includes distribution, display, or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of his or her membership in a Protected Class.

**SEXUAL HARASSMENT:** is any unwelcome sexual advance, request for sexual favor, and/or other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and/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.

The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

1. Unwelcome or unwanted sexual advances including patting, pinching, brushing up against, hugging, cornering, kissing, fondling, or any physical conduct.
2. Unwelcome or unwanted requests or demands for sexual favors, including subtle or blatant expectations, pressures, or requests for any type of sexual favor in exchange for or accompanied by an expressed, or implied threat or promise of a benefit related to one's employment.
3. Unwelcome verbal abuse, bantering or teasing that is of a sexual nature. This includes offensive innuendoes, jokes, and comments of a sexual nature.
4. Displaying an intimidating, hostile, or offensive attitude because of rejected sexually oriented demands, requests, physical contact, or attention.
5. Interfering with a co-worker's performance by giving unwanted sexual attention, or sexually oriented conduct that reduces personal productivity or safety.
6. Condoning a work environment that is not free of sexually oriented or offensive innuendoes.
7. Distributing, displaying, or discussing any written or graphic material that is offensive and sexual in nature and/or shows hostility toward an individual or group because of sex, including calendars, posters, cartoons, letters, notes, facsimiles, e-mails, photos, text messages, tweets, Internet postings, or other forms of communication.

**RETALIATION:** is an adverse employment action taken against an individual because they engage in protected activity or to deter an individual from engaging in protected activity. Protected activity consists of: (1) opposing conduct reasonably believed to constitute discrimination, including harassment, which violates a nondiscrimination statute, or this court policy; (2) reporting such conduct; or (3) testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination complaint.

- E. COMPLAINT PROCEDURE:** Any perceived discrimination, harassment, or retaliation shall be reported. Any person may file a complaint alleging discrimination, harassment, or retaliation. Classified employees who use the complaint procedure in this section regarding allegations of discrimination, harassment, or retaliation are precluded from using the Superior Court's grievance procedure for the same allegations or for a disciplinary action that the employee alleged in the complaint was related to the allegations of discrimination,

harassment, or retaliation.

1. Persons alleging to have been subjected to discrimination, harassment, or retaliation, or who have personal knowledge of discrimination, harassment, or retaliation during the course of their employment with the Court shall submit a signed complaint form to their immediate supervisor, Division Head or the Presiding Judge, describing the events and/or actions leading up to the filing of the form.
  2. The completed form shall contain the location of the incident, the name of the individual whose behavior is alleged to have constituted discrimination, harassment or retaliation, names of individuals who were witnesses of the alleged incident, and any other information which provides understanding of the incident or action giving rise to the complaint.
  3. The person receiving the report shall document the report and forward the documentation to the Division Head. If the complaint is about a Division Head the complaint shall be forwarded to the Court Administrator. If the complaint is about the Court Administrator, the complaint shall be forwarded to the Human Resources Manager. The Division Head shall promptly, impartially, and thoroughly investigate as appropriate the charges cited in the complaint and interview such individuals as necessary to gain an understanding of the incident giving rise to the complaint.
  4. If upon review a basis is found for the complaint, the Division Head shall issue a written determination in this regard including a finding as to whether the alleged conduct occurred and if so, whether it constituted a violation of this policy. The written determination shall be forwarded to the subject's supervisor with a recommendation as to how the problem should be resolved. The Division Head shall also provide copies of the written determination to the Presiding Judge, the person who filed the complaint, the subject of the report, and any other persons involved in the investigation as deemed appropriate.
  5. Upon receipt of the determination, the supervisor shall adopt a course of action consistent with this recommendation which seeks to resolve the matter in an effort to eliminate the likelihood that the incident giving rise to the complaint will be repeated in the future.
  6. If no basis is found for a complaint of discrimination, harassment or retaliation, the person alleging to have been subjected to discrimination, harassment, or retaliation shall be so notified in writing by the Division Head. A person filing a complaint who receives notice that no basis has been determined for the complaint may disagree with the finding of no cause and request review of the matter by the Presiding Judge within seven (7) working days of the notice.
- F. DISCIPLINE:** Any person found to have subjected an individual to any form of discrimination, harassment, or retaliation shall be subject to disciplinary action up to and including dismissal.



**G. CONFIDENTIALITY:**

1. Reasonable efforts will be made to maintain the confidentiality of investigative actions. However, confidentiality is not assured for any party to a complaint or investigation.
2. Information concerning discrimination, harassment, or retaliation discussed pursuant to this policy shall not be disclosed to anyone not involved with the investigation.
3. All employees who are contacted regarding a discrimination, harassment, or retaliation complaint or report shall maintain the confidentiality of the complaint or report and all matters discussed related to the complaint or report.

**H. RECORDS AND FILES:** All documentation relative to discrimination, harassment, or retaliation investigations shall be maintained by the Division Head in accordance with the Arizona Code of Judicial Administration §3-402: Superior Court Records Retention and Disposition Schedule in separate and confidential files. After this period, these documents may be destroyed unless Superior Court Human Resources has been notified that a discrimination action has been filed with the EEOC or that litigation has been initiated or Superior Court Human Resources otherwise determines to retain the record for a greater period of time.

**I. RESPONSIBILITY:**

1. Persons who believe that they have been subjected to discrimination, harassment, or retaliation as defined in this policy shall make their supervisor, Division Head, or the Presiding Judge aware of such alleged harassment.
2. The Division Head shall enforce provisions of this policy and in the event of a complaint, promptly, impartially, and thoroughly investigate it in a fair and, to the extent possible, confidential manner.
3. Any form of retaliation by person(s) against any complaining person, participating witness, and/or person cooperating in an investigation will not be tolerated and shall be grounds for disciplinary action, up to and including dismissal.
4. All designated persons in authority in the Judicial service shall be responsible for ensuring compliance and enforcement of this policy within their respective court or division.

**J. DISCRIMINATION, HARASSMENT OR RETALIATION BY JUDGES OR SPECIAL JUDICIAL OFFICERS:** Discrimination, harassment, or retaliation by Judges against any person shall be grounds for filing a complaint to the Arizona Commission on Judicial Conduct pursuant to commission rules and procedures. The Presiding Judge shall ensure that alleged discrimination, harassment, or retaliation charges against Judges are appropriately referred to the Commission according to commission rules. Discrimination, harassment, or retaliation by special Judicial officers shall be grounds for disciplinary action up to and including dismissal or termination of contractual agreements.

- K. SEXUAL HARASSMENT BY VENDORS:** Sexual harassment by vendors shall be grounds for termination of vendor contracts.
- L. NON-RETALIATION:** Any form of retaliation by person(s) against any complaining person, participating witness, and/or person cooperating in an investigation will not be tolerated and shall be grounds for disciplinary action, up to and including dismissal.
- M. FALSE ACCUSATIONS:** Any person who knowingly or recklessly makes a false and malicious accusation of harassment, discrimination or retaliation against any person shall be subject to disciplinary action up to and including dismissal.
- N. NOTICE OF POLICY:** Superior Court Human Resources shall ensure that all Judges and Judicial employees are informed of and receive a copy of this policy. The Presiding Judge or designee in each Mohave County court location shall post this policy in a common area to ensure proper notice and distribution.
- O. EDUCATION AND TRAINING:** Superior Court Human Resources shall as necessary coordinate and ensure education and training for Judges and Judicial employees regarding this policy. Judges, administrators, supervisors, and court clerks shall receive training to assist them in recognizing discrimination, harassment, and retaliation and taking appropriate action pursuant to this policy.

- A. **EQUAL EMPLOYMENT OPPORTUNITY:** The Superior Court shall administer the Personnel System in a manner consistent with federal, state and local laws, rules and regulations concerning equal employment opportunity.

All decisions and procedures regarding recruitment, selection, promotion and other terms and conditions of employment shall be made without discrimination on the basis of race, color, sex, gender, sexual orientation, age, national origin, ethnicity, disability, political or religious affiliation, veteran's status, genetic information, marital status, or socioeconomic status, and shall be in compliance with equal employment laws, the Americans with Disabilities Act as amended and all other applicable federal and state laws (these categories are collectively referred to in this policy as "Protected Class).

- B. **PROHIBITION OF DISCRIMINATION AND HARASSMENT:** Discrimination and harassment based on a Protected Class is a form of illegal discrimination which violates the law and spirit of Judicial employment. The Court has a program to prevent discrimination and harassment, including a policy on the Court's prohibition of discriminating and harassing behavior; a training program for elected officials, supervisory and non-supervisory personnel; and prompt remediation and correction of any known instances of discrimination and harassment. Individuals employed by the Court who are found to have engaged in discriminating and harassing behavior as defined by this Rule may be subject to discipline, up to and including dismissal.
- C. **DISABILITY ACCOMMODATION:** The Superior Court is committed to compliance with the Americans with Disabilities Act (ADA), including ensuring access to employment opportunities for qualified individuals with disabilities. Hiring procedures will be reviewed on an ongoing basis to determine continuing compliance with the provisions of the ADA, and changes made where indicated. The Superior Court does not discriminate based on actual or perceived disability or association with an individual who is disabled under the ADA. The Court will endeavor to work with qualified employees and applicants with disabilities in seeking to identify and implement reasonable and effective accommodations where such accommodations do not place an undue hardship on the Court.
- D. **IMMIGRATION LAW COMPLIANCE:** The Superior Court is committed to employing only United States citizens and aliens who are authorized to work in the United States. The Superior Court, however, does not discriminate on the basis of citizenship or national origin. In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not filed one with the Superior Court within the past three (3) years or if their previous I-9 is no longer retained or

**ARTICLE 1.**  
**RULE 106.**

**GENERAL**  
**NONDISCRIMINATION**

**EFFECTIVE DATE: 05/04/98**  
**REVISED DATE:**

---

valid. Employees who have questions or seek more information on immigration law issues are encouraged to contact their Division Head. Employees may raise questions or complaints about immigration law compliance without fear of reprisal.

## MOHAVE COUNTY SUPERIOR COURT POLICY AND PROCEDURE

TITLE: 3.01 CHAIN OF COMMAND, EMPLOYMENT OF  
RELATIVES, NON-FRATERNIZATION AND  
CHILD LABOR

EFFECTIVE DATE: 04/29/2010  
REVISED DATE:

---

### A. CHAIN OF COMMAND:

1. The chain of command for the Superior Court is as follows:
  - a. Presiding Judge: Final level of chain of command. The Presiding Judge has final authority over personnel matters, including but not limited to disciplinary actions and management policies within the Superior Court. As deemed necessary, the Presiding Judge may designate the Associate Presiding Judge to have final authority over specific personnel matters.
  - b. Court Administrator: Second highest level in chain of command (for personnel matters) prior to reaching the level of the Presiding Judge. The Court Administrator has responsibility for daily administration of the Judicial Merit System, policies and procedures, and/or as otherwise directed by the Presiding Judge.
  - c. Division Head: Intermediate level of the chain of command. Division Heads have primary authority for personnel matters arising in the course of managing their assigned Divisions, subject to the limitations established by the Judicial Merit Rules, policies and procedures, including but not limited to: appraising and evaluating employee performance, proposing and instituting disciplinary actions and establishing divisional policies and procedures.
  - d. Supervisory Staff Designee of Division Head: Individuals under the supervision of a Division Head to whom the Division Head has delegated authority including supervising authority.
  - e. Line Staff: Under direction of a Division Head, may be granted temporary supervising authority.
2. As a general guideline, employees are expected to follow the chain of command when seeking to bring work-related matters of concern to the attention of court management. The Court recognizes, however, that exceptional circumstances may exist which require an employee to skip one or more levels in the chain of command to seek assistance. These situations may include, but are not limited to the following:
  - a. Perceived, alleged or actual illegal, immoral, discriminatory, harassing or retaliatory behavior by one individual occupying the applicable level in the chain of command; or
  - b. Situations in which the complaint or concern is directed specifically at the individual occupying the applicable level in the chain of command and when communicating with said person would cause undue distress on the employee, or where one or more previous communications with such individual have not produced a desired result.
3. When an employee elects to skip one or more levels in the chain of command, and when, upon review by the person to whom the employee disclosed their concerns the decision is reached to do so, the employee may be referred back to a lower level in the chain of command with or without accompaniment by a higher level manager in an effort to resolve the matter(s) on an informal basis.

## MOHAVE COUNTY SUPERIOR COURT POLICY AND PROCEDURE

TITLE: 3.01 CHAIN OF COMMAND, EMPLOYMENT OF RELATIVES, NON-FRATERNIZATION AND CHILD LABOR

EFFECTIVE DATE: 04/29/2010  
REVISED DATE:

---

### **B. EMPLOYMENT OF RELATIVES:**

1. Relatives of an employee shall not be employed where one employee supervises the other.
2. Relatives of an employee shall not be employed where decisions of compensation and approval of work are made by an immediate family member.
3. Immediate family members shall not be employed in the same division without approval of the Presiding Judge.
4. Work site or duty considerations of Court employees who subsequently become related by marriage or cohabitation may warrant transfer or layoff.

### **C. NON-FRATERNIZATION:**

The success of the Court depends on positive employee morale and good working relationships. The Court recognizes that workplace romances or attractions can develop between people who work together. Employees who engage in personal relationships (including romantic and sexual relationships) should be aware of their professional responsibilities and will be responsible for assuring that the relationship does not raise concerns about ethics or conflicts of interest. In cases of doubt, advice and counsel should be sought from their Division Head.

Unfortunately, attractions are not always mutual, and these situations can develop into sexual harassment complaints. In addition, a relationship between a supervisor and his/her subordinate can often cause morale problems or misperceptions about assignments and favoritism on the part of other employees in the court division.

For these reasons, supervisory employees are not permitted to date, or become romantically involved with, and/or engage in any fraternization or similar conduct, attempted or otherwise, with any employee with whom they have a supervisor/subordinate relationship. In the event that such a relationship develops between a supervisor and his/her subordinate employee, it is the responsibility of the supervisory employee to promptly disclose the existence of the relationship to the attention of his/her supervisor, Division Head, or to the Court Human Resource Manager. The subordinate employee may make the disclosure as well, but the burden of doing so shall be upon the supervisory employee. The individual receiving such notification shall confer with the involved Division Head and Court Human Resource Manager, to explore what arrangements are necessary to further the best interests of the Court and may include but are not limited to: transfer, reassignment, and/or dismissal of the involved employee(s). The Court Administrator shall be consulted prior to taking any action.

### **D. CHILD LABOR PROVISIONS:**

1. Minors between the ages of sixteen (16) and eighteen (18) may be employed by the Court as part of the regular workforce or in summer jobs for youth programs. Employment of minors shall be done in compliance with federal, state and local wage and hour laws. Occupational and age restrictions apply to certain jobs involving operation of equipment and hazardous materials. Divisions should contact Court Human Resources for clarification.
2. All employees under the age of 19 shall submit documentary proof of age.