

**IN THE THIRTEENTH JUDICIAL CIRCUIT COURT
FOR HILLSBOROUGH COUNTY, FLORIDA**

ADMINISTRATIVE ORDER NO. S-2004-071

**SEXUAL HARASSMENT POLICY AND
COMPLAINT PROCEDURES AGAINST JUDGES**

WHEREAS in response to the Florida Supreme Court's directive, the Conference of Circuit Judges submitted its recommendations for a Sexual Harassment Policy and Procedures for Complaints against Judges; and

WHEREAS on March 25, 2004, the chief justice entered Administrative Order No. SC04-8, approving the Sexual Harassment Policy and Procedures for Complaints against Judges as the uniform policy and procedures for circuit courts; it is therefore

ORDERED:

1. Policy

It is the policy of the Thirteenth Judicial Circuit to make the workplace free of sexual harassment. 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
- 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.

It is the policy of the Thirteenth Judicial Circuit that complaints of sexual

harassment will be treated seriously and acted upon promptly. The following procedures apply to complaints against judges made by employees or applicants for employment. Compliance with these procedures satisfies a chief judge's disciplinary responsibilities under Canon 3D(1) of the Code of Judicial Conduct.

2. Notification

The chief judge hereby designates the court administrator to be responsible for receiving and documenting complaints of sexual harassment against judges of this circuit.

Any employee or applicant for employment with the court who believes that he or she is the subject of sexual harassment by a county court judge or a circuit court judge should report his or her complaint in writing to the chief judge or to the court administrator. If any person has difficulty in writing out the complaint, the chief judge or court administrator should aid the complainant in reducing the complaint to writing.

If the chief judge is the subject of a complaint, the employee or applicant should report the complaint to the court administrator who will refer such complaint to the chief judge of the judicial circuit within the territory of the Second District Court of Appeal having the longest continuous service as chief judge. The chief judge to whom such a complaint is referred will assume all complaint investigation and resolution duties as provided for in these procedures. The chief judge to whom such a complaint is referred will also be responsible for maintaining any records pertaining to the complaint.

If an employee or applicant chooses not to file a formal complaint, but the chief judge has actual knowledge or receives information that a substantial likelihood exists that another judge has engaged in sexual harassment, the chief judge will inquire into the matter and take appropriate action.

3. Time for Filing Complaints

In order to ensure that the Thirteenth Judicial Circuit complaint procedures 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 90 days of the date of occurrence.

4. Investigation

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

The chief judge or the chief judge's designee will interview the complainant within five 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 or the chief judge's designee will rely upon information that is available, to the extent possible. If another person has been designated to make an initial inquiry into the complaint, such designee will report details of the complaint to the chief judge within ten days of the submission of the complaint.

The chief judge may dismiss the complaint as unfounded or insufficient to constitute sexual harassment. If the complaint is sufficient to constitute sexual harassment, the chief judge may appoint an investigating officer or officers to formally investigate the complaint.

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 days of the submission of the complaint.

5. Resolution

The chief judge will determine the course of action for resolution of the complaint, and may appoint another person to resolve the complaint.

The chief judge may attempt to resolve the complaint informally through mutual conciliation by meeting with the complainant and 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.

If the complaint and investigation raise a substantial question as to a 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.

6. Documentation and Confidentiality

All information pertaining to a complaint of sexual harassment must be documented and maintained by the chief judge or the chief judge's designee.

All records made or received by the chief judge or the chief judge's designee through use of these complaint procedures are exempt from public disclosure under rule 2.051(c)(3)(A), Florida Rules of Judicial Administration. Such records are exempt 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 are forwarded to the Judicial Qualifications Commission, such records will be confidential under Rule of Judicial Administration 2.051(c)(3)(A), and rule 23(a), 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 the chief judge or the chief judge's designee 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.

7. Referral to the Judicial Qualifications Commission

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 a

chief judge is required. The Commission is responsible for investigating all reported instances of judicial misconduct. The Judicial Qualifications Commission is located at 1110 Thomasville Road, Tallahassee, Florida 32303-6224. The Commission's Executive Director, Brooke S. Kennerly, can be contacted at (850) 488-1581.

8. Referral to the Florida Commission on Human Relations or the United States Equal Employment Opportunity Commission

These procedures do not preclude the filing of a charge of employment discrimination with the Florida Commission on Human Relations or the Equal Employment Opportunity Commission. The Florida Commission on Human Relations is located at 2009 Apalachee Parkway, Suite 100, Oakland Building, Tallahassee, Florida 32301-4857. The telephone number for the Florida Commission on Human Relations is (850) 488-7082. The United States Equal Employment Opportunity Commission office with jurisdiction over complaints arising in the Thirteenth Judicial Circuit is located at 501 East Polk Street, Suite 1000, Tampa, Florida 33602. The telephone number for the United States Equal Employment Opportunity Commission is (813) 228-2310 or 1-800-669-4000.

DONE AND ORDERED in chambers in Tampa, Hillsborough County, Florida, this 12th day of August, 2004.

\s\ Manuel Menendez, Jr.
Manuel Menendez, Jr., Chief Judge

Original to: Richard Ake, Clerk of the Court
Copies to: All Judges
Michael L. Bridenback, Court Administrator
All Court Staff
Judicial Qualifications Commission