

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

**ADMINISTRATIVE ORDER S-2018-016
(Supersedes Administrative Order S-2004-071)**

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

The Florida Supreme Court amended the Sexual Harassment Policy and Procedures for Complaints against Justices and Judges earlier this year. *See* Administrative Order AOSC18-6 (February 16, 2018). As a result, it is necessary to update the Sexual Harassment Policy and Procedures for Complaints against Judges in this circuit. Accordingly, it is ORDERED:

1. Policy

It is the policy of the Thirteenth Judicial Circuit to foster a 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 a persistently intimidating and hostile environment, as that term is defined in state and federal law.

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.

It is the policy of the Thirteenth Judicial Circuit that all complaints of sexual harassment or sexual misconduct against any judge will be treated seriously and acted upon promptly. The following procedures apply to complaints against judges made by employees of the court system, applicants for employment with the court system, and when applicable, attorneys, litigants, or other members of the public. Compliance with these procedures by the chief judge constitutes a presumption of compliance with the disciplinary responsibilities under Canon 3D(1) of the Florida Code of Judicial Conduct.

2. Notification

The chief judge designates the court administrator to be responsible for receiving and documenting complaints of sexual harassment or sexual misconduct against judges of the Hillsborough County Court and the Thirteenth Judicial Circuit Court.

Any employee or applicant for employment with the court system who believes that he or she is the subject of sexual harassment or sexual misconduct by a county court judge or a circuit court judge should report his or her complaint in writing, or if the person prefers he or she may submit the complaint orally. The complaint may be submitted to any of the following: the chief judge, the court administrator, or the chief of human resources. If the person receiving the complaint is not the chief judge, the person receiving the complaint should forward it to the chief judge for investigation in accordance with section 4.

Student interns working for the state courts system 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 the school sexual harassment complaint procedures.

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 or designee must designate a person who will not be involved in the investigation or adjudication of the complaint to 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 circuit judge having the longest continuous service as a judge in accordance with Florida Rule of Judicial Administration 2.215(c). The circuit

judge to whom such a complaint is referred will assume all complaint investigation and resolution duties as provided for in these procedures. The circuit 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, and any person designated in these procedures 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.

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. Any complaint of sexual misconduct should also be reported within 90 days of the date of occurrence.

4. Investigation

A complaint of sexual harassment or sexual misconduct 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 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 or the chief judge's designee will rely upon any information that is available. If another person has been designated to make an initial inquiry into the complaint, the designee will report details of the complaint, including any relevant facts, circumstances, and information, to the chief judge within 10 days of the submission of the complaint.

If the chief judge or the chief judge's designee determines the complaint is unfounded or insufficient to constitute sexual harassment, he or she may decline to pursue any action on the complaint.

If the chief judge or the chief judge's designee determines the complaint is facially sufficient to constitute sexual harassment, the chief judge may appoint an investigating officer or officers to investigate the complaint or may take any other action appropriate under the circumstances.

If the chief judge or the chief judge's designee determines the complaint is insufficient to constitute sexual harassment, but determines that it indicates potential sexual misconduct, the chief judge or the chief judge's designee may take any action appropriate to address the circumstances, including, but not limited to, appointing an investigating officer or officers to investigate the complaint.

The chief judge or investigating officer(s) will interview the complainant, the judge implicated, and witnesses, if any, and will review relevant materials. If any investigating officers have been appointed, they will submit a written report to the chief judge within 30 days of the submission of the complaint for formal investigation.

5. Resolution

The chief judge will determine the course of action for internal resolution of the complaint and may appoint another person to recommend the course of action for internal resolution. If the chief judge is the subject of a complaint, the circuit judge having the longest continuous service as a judge will determine the course of action for internal resolution of the complaint and may appoint another person to recommend the course of action for internal resolution.

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

If the complaint and investigation reasonably indicate that the subject judge engaged in activity that constitutes sexual harassment, constitutes sexual misconduct, or otherwise raises a substantial question as to the judge's fitness for office, the chief judge must refer the complaint and all written documentation pertaining to the complaint to the Judicial Qualifications Commission.

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 resulting action is taken.

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 any person in accordance with 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.

In accordance with Florida Rule of Judicial Administration 2.420(c)(3)(A) and rule 23(a) of the Rules of the Judicial Qualifications Commission, if records pertaining to a complaint are forwarded to the Judicial Qualifications Commission, such records will remain confidential 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 has been forwarded to the Judicial Qualifications Commission will become public only upon formal charges being filed with the clerk of the Florida Supreme Court.

7. Referral to the Judicial Qualifications Commission

The Judicial Qualifications Commission is responsible for investigating 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 a chief judge is required.

For anyone wishing to file a complaint, the Commission's mailing address is Post Office Box 141106, Tallahassee, Florida 32317. The Commission's executive director can be contacted by telephone at (850) 488-1581 or by e-mail at contact@floridajqc.com.

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 (FCHR) or the United States Equal Employment Opportunity Commission (EEOC). For anyone wishing to file a complaint, the FCHR is located at 4075 Esplanade Way, Room 100, Tallahassee, Florida 32399. The telephone number for the FCHR is (850) 488-7082 or 1-800-342-8170. The EEOC 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 EEOC is 1-800-669-4000.

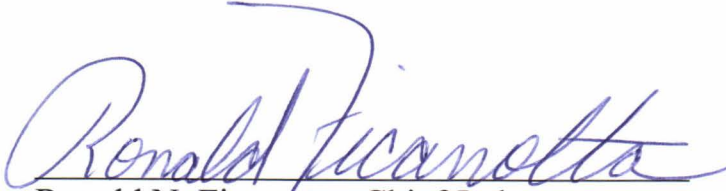
9. Previous Administrative Order Superseded

This administrative order supersedes Administrative Order S-2004-071 (*Sexual Harassment Policy and Complaint Procedures against Judges*).

10. Effective Date

This administrative order is effective immediately.

ENTERED in Tampa, Hillsborough County, Florida on May 16, 2018.


Ronald N. Ficarrota, Chief Judge

Original to: Pat Frank, Clerk of the Court

Copies to: All Judges
Gina Justice, Court Administrator
All Court Staff