

IN THE CIRCUIT COURT OF THE 16TH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA IN AND FOR MONROE COUNTY

ADMINISTRATIVE ORDER 11.013

IN RE:

SEXUAL HARASSMENT POLICY
AND COMPLAINT PROCEDURE
AGAINST JUDGES

:

WHEREAS, the Supreme Court of Florida in Administrative Order #AOSC04-8 directs circuit chief judges to adopt and implement the policy and procedures regarding sexual harassment against trial court judges in their respective circuits,

It is therefore,

ORDERED that:

The following constitutes the sexual harassment policy and complaint procedure against judges in the 16th Judicial Circuit.

1. Policy

It is the policy of the 16th 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:

1. Submission of 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.

It is the policy of the 16th 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 may designate any person, including a non-judge, 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 judge or a circuit judge, or a senior judge should report his or her complaint in writing to the chief judge or to the chief judge's designee. If any person has difficulty in writing out the complaint, the chief judge shall designate a person, who will not be involved in the adjudication thereof, 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 chief judge of the Eleventh Judicial Circuit. 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 Sixteenth 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 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 chief judge's designee through use of these complaint procedures are exempt from public disclosure under rule 2.501(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 2.501(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 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 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 Commission is: (850) 488-7082.

The United States Equal Employment Opportunity Commission office with jurisdiction over complaints arising in the Sixteenth Judicial Circuit is located at¹:

Miami Office: One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, Florida 33131. The telephone number for the Miami office is: (305) 536-4491 or 1-800-669-4000.

DONE AND ORDERED, in Key West, Monroe County, Florida, this the 26 day of April, 2004.

Richard G. Payne
Chief Judge

¹ The Miami office of the EEOC has jurisdiction over employment discrimination complaints arising in the 16th Judicial Circuit.