

## SECTION 6--POLICY REGARDING NONDISCRIMINATION AND PROHIBITION AGAINST RETALIATION

### 6.1 Purpose

It is the policy of the Court to provide equal employment opportunities and a work environment free from all forms of illegal discrimination. In keeping with that policy, the Court will not tolerate any form of illegal discrimination by any employee of the Court.

### 6.2 Definitions

**“Applicant”** means an individual who has responded to an employer which has acted to fill a particular position; the individual has followed the employer's standard procedures for submitting applications; and the individual has indicated an interest in the particular position.

**“Designee(s)”** means the Human Resources Unit as designated by CAO to provide policy dissemination coordination, policy implementation oversight, and guidance to supervisors and managers to ensure the appropriate handling of alleged policy violations.

**“Discrimination”** means any act or failure to act (whether by itself or as a part of a practice), the effect of which is to adversely affect or adversely differentiate against individual applicants or employees or groups of applicants or employees, because of a protected status.

**“Harassment”** is a form of discrimination which occurs when an employee is (a) member of a protected class; (b) subject to unwelcome verbal or physical conduct; (c) the conduct is because of the employee's protected status; (d) the conduct is so severe or pervasive so as to alter the terms or conditions of employment; *and* (e) county management knew or should have known of the conduct.

Such conduct can take many forms and may include epithets, slurs, and negative stereotyping; threatening, intimidating or hostile acts; or written or graphic materials that denigrate or show hostility or aversion that is placed on walls, bulletin boards, electronic bulletin boards, e-mail or otherwise placed or circulated in the workplace; when such actions or materials are related to or directed at an employee or group of employees because of a protected status.

**“Hostile Work Environment Harassment”** occurs when an employee or group of employees is subject to unwelcome verbal or physical conduct in the workplace in the form of discriminatory harassment based upon a protected status. In addition, it must be severe and pervasive so as to alter the terms or conditions of employment.

**“Sexual Harassment”** is also a form of discrimination and occurs when an employee or group of employees is subject to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. It may include opposite sex, same sex, sexual orientation, or gender identity and expression harassment where the conduct is motivated by gender. The two general types of sexual harassment are (a) “quid pro quo” harassment and (b) “hostile work environment” harassment.

**“Quid Pro Quo”** sexual harassment occurs when an employee or group of employees is subject to unwelcome conduct when submission to such conduct is made either explicitly or implicitly a term or condition of employment; or submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual. Examples include but are not limited to the expectation of a promotion or special treatment in exchange for sexual favors

**“Hostile Work Environment Sexual Harassment”** harassment occurs when an employee or group of employees is subject to unwelcome conduct of a sexual nature that is so severe or pervasive that it alters the conditions of the work environment. Examples include but are not limited to: sexually inappropriate comments, unwelcome touching, posting sexually suggestive materials in a locker.

**“Employee”** means any non-judicial employee who works for the Court.

**“Enforcement agencies”** means agencies that are authorized by law to accept and investigate employment discrimination complaints such as the Federal Equal Employment Opportunity Commission, the Washington State Human Rights Commission, and the King County Office of Civil Rights.

**“Good faith”** means the individual providing the information or report of discriminatory conduct has a reasonable basis in fact for reporting or providing the information. An individual who knowingly provides or reports, or who reasonably ought to know he or she is providing or reporting, malicious, false, or frivolous information, or information that is provided with reckless disregard for the truth, is not acting in good faith.

**“Protected Status”** means sex, race, color, national origin, religious affiliation, veteran status, disability (unless based upon a bona fide occupational qualification), sexual orientation, gender identity or expression, age (except by minimum age and retirement provisions), or marital status.

**“Retaliate,” “retaliation” and “retaliatory action,”** means to make any unwarranted adverse change in an employee's employment status or the terms and conditions of employment for reporting discrimination or participating in a fact-finding regarding discrimination, including but not limited to:

- Denial of adequate staff to perform duties;
- Frequent staff changes;

- Frequent and undesirable office changes;
- Refusal to assign meaningful work;
- Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;
- Demotion;
- Reduction in pay;
- Denial of promotion;
- Denial of training or benefits;
- Transfer or reassignment;
- Suspension or dismissal;
- Other unwarranted disciplinary action; and
- Any management employee or official behaving in or encouraging coworkers to behave in a hostile manner toward the employee, or failing to take appropriate action to prevent coworkers from behaving in a hostile manner toward the employee.

### **6.3 Investigative Procedures:**

Any employee who believes he or she has been discriminated against should seek relief according to the following procedures:

1. Confront the person and ask him or her to stop the behavior; and/or
2. Report the incident to his or her immediate supervisor or any other member of management; and/or
3. File a discrimination complaint with the Presiding Judge of the Court; and/or
4. File a complaint with a human/civil rights agency.

It is the obligation of a supervisor to work with any employee reporting any alleged discrimination, to consider options and assist in the investigation of such allegations.

The Presiding Judge, shall, upon receipt of a discrimination complaint, request the Human Resources Director of the Court, or his or her designee, to conduct an investigation of such complaint and to make a factual finding to the Presiding Judge regarding the validity and disposition of such complaint as soon as reasonably practicable. If the Presiding

Judge finds the complaint to be a violation of these policies, he or she shall present the complaint and findings to the EC for action.

The EC, upon receiving a finding of discrimination from the Presiding Judge, shall take action to correct and eliminate any violations of the policies herein set forth, and take appropriate action as necessary.

The procedures above set forth **do not limit** the right of an employee to:

1. file a grievance if a member of a labor union;
2. file a complaint with any enforcement agency;
3. consult with an attorney or file a civil law suit; and/or
4. seek any other remedy by law.

#### 6.4 Responsibilities

It is the responsibility of management to inform employees that discrimination of any sort will not be tolerated. It is a major offense which may result in disciplinary action up to and including termination of employment. There are procedures that must be followed immediately if employees feel they have been discriminated against.

It is the responsibility of all supervisors to inform employees that any retaliatory action against an employee for filing and/or participating in a discrimination complaint of any sort will not be tolerated and is a major offense which may result in disciplinary action up to and including termination of employment. There are procedures that must be followed immediately if employees feel they have been the subject of retaliatory action.

It is the responsibility of all supervisors to take immediate and appropriate action upon learning of any violation of this policy and to give full cooperation when a complaint has been filed.

It shall be the responsibility of the Court's Presiding Judge to keep all parties informed in a discrimination complaint of the procedures being followed and to prohibit retaliation against any person or persons involved in the filing or investigation of a discrimination complaint.

**From:** Tucker, Donna  
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**To:** Giambattista, Jennifer <[Jennifer.Giambattista@kingcounty.gov](mailto:Jennifer.Giambattista@kingcounty.gov)>  
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**Subject:** RE: Information on District Court's existing discrimination and harassment policies

Jenny,

The Courts of Washington State including the King County District Court are required to comply with the Canons of Judicial Conduct. I have included links to the relevant Canons of Judicial Conduct below. The failure of a Judge to act in accordance with these canons or for permitting others under the Judges' supervision to act in violation of these canons of conduct also subject the Judge to discipline by the Judicial Conduct Commission. In addition, I have attached a copy of the relevant portions of the Court's Personnel Guidelines regarding the subject of this ordinance. The King County District Court Personnel Guidelines are developed by the Executive Committee of the Court which is comprised of 5 Judges elected by all of the 25 Elected Judges of King County District Court.

As the Chief Presiding Judge I am held personally responsible for the behavior of court staff by the Judicial Conduct Commission, thus at the time of onboarding a new court employee I have a one hour meeting with him/her/them where we discuss the relevant Canons of Judicial Conduct and the comments thereto:

[http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.rulesPDF&ruleId=gacjc2&pdf=1](http://www.courts.wa.gov/court_rules/?fa=court_rules.rulesPDF&ruleId=gacjc2&pdf=1)

[http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.rulesPDF&ruleId=gacjc1&pdf=1](http://www.courts.wa.gov/court_rules/?fa=court_rules.rulesPDF&ruleId=gacjc1&pdf=1)

[http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.rulesPDF&ruleId=gacjc3&pdf=1](http://www.courts.wa.gov/court_rules/?fa=court_rules.rulesPDF&ruleId=gacjc3&pdf=1)

I personally advise the employees that it is imperative for the public to have confidence in the Court's independence, integrity and impartiality so as court employees we must hold ourselves to the high standards of the Canons of Judicial Conduct. Each new employee is advised (1) they have every right to expect the same standard of behaviors listed in the Canon's of Judicial Conduct from the judges, the directors, the managers, co-workers, the attorneys appearing in court, and interpreters while working at our courthouse locations.; (2) while at work they have a responsibility to behave personally with the same standards set forth in the Canons and failure to do so may result in discipline; and (3) The public has the right to expect that failure to conform behavior to the Canons of Judicial Conduct will result in reporting, correction and /or punishment for the failures. Each employee is assured that complaints will be taken seriously and to the extent possible it will be kept confidential and that retaliation will not be tolerated. Employees are encouraged to report behaviors of harassment regardless of the employment status of the harasser or harassed. You will note in the comments to the Canons of Judicial Conduct that in Court employees prohibited from harassment behavior that denigrates or shows hostility or aversion toward a person on the bases such as race, sex, gender, religion, national origin, ethnicity, disability, age sexual orientation, marital status, changes in marital status, parenthood, social economic status, or political affiliation.

I advise each new employee that reports of inappropriate or questionable behavior can be made to any District Court manager, director, human resource employee, or any one of the 25 elected judges specifically including me as the Presiding Judge. They are advised that if they are uncomfortable reporting the behavior to anyone in the King County District Court they may also directly contact the Judicial Conduct Commission which keeps all reports confidential. In addition to reports to the Judicial Conduct Commission, the Court has used the services of the Interpreter Commission to report inappropriate behavior of interpreters appearing in court proceedings and to the Washington State Bar Association for inappropriate behavior by attorneys appearing in court.

In addition to my conversation with each new employee, the human resources staff provide a copy of the Personnel Guidelines and a member of HR specifically goes over the Non-Discrimination policy. Employees are also shown a 40-45 minute video that discusses among other things what discrimination is and how to recognize it in the workplace.

In response to your question about what happens when a Judge is accused of a violation. An employee with a complaint about a judge may make the report directly to the Judicial Conduct Commission. However, in the case of a complaint by an employee directly to the court it becomes the responsibility of the Presiding Judge or the Assistant Presiding Judge or the Executive Committee of the Court to appropriately address the complaint. As you can see in the Canon's of Judicial Conduct, the failure of these Judicial Offices to take appropriate action then subjects him/her to Judicial Conduct Commission discipline for failing to act. The manner in which a complain would be handled is fact specific, this could include a direct referral of the complaint to the Judicial Conduct Commission since this is the only body with authority to sanction, punish or remove an elected Judicial Officer; it could include consultation with the Judicial Conduct Commission, attorney or other human resource specialist with expertise in handling such work place complaints, investigations and remedial action if appropriate.

Thank you for the opportunity to respond to your questions, I would ask as this legislation moves forward that the provisions of General Rule 29 and the comments to GR 29 be considered regarding the responsibility of the Court to manage Court employees as a separate and independent branch of the government. The recognition that additional funding to assist in additional planning, training and implementation of these important values is truly appreciated.

[http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=ga&set=GR&ruleid=gagr29](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr29)

I will be out of country and out of communication until June 3. If you have additional questions about the KCDC HR departments work with employees on these issues you may contact Othniel. Any additional questions regarding the Court may be address to the assistant Presiding Judge Janet Garrow.

Thank you.

Donna Tucker, Chief Presiding Judge  
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