

- A. PURPOSE:** The purpose of this Rule 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 Rule is also intended to unequivocally establish the Court's opposition to and disapproval of prohibited behaviors falling under its purview. While this policy is worded primarily toward sexual harassment, it may also be used to seek redress of harassment based on race, color, age, national origin, disability, political or religious affiliation or veteran's status.
- B. POLICY OVERVIEW:** All Judicial employees, Division Heads and elected officials, regardless of gender, have a right to work in an environment free from unwelcome advances, innuendo and/or actions of a sexual nature which create a hostile or offensive working environment or otherwise impair a person's ability to perform their assigned duties.
- 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 93-16 which defines the Arizona Judiciary Sexual Harassment Policy.
- D. SEXUAL HARASSMENT DEFINED:** Sexual harassment is defined as 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.
- E. SOME BEHAVIORS WHICH HAVE BEEN FOUND TO CONSTITUTE SEXUAL HARASSMENT:¹**
1. Unwelcome or unwanted sexual advances including patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any physical conduct considered unacceptable by another individual.

1

This list is provided for illustration purposes only. It is not an exhaustive list and does not include all behaviors which may or do constitute sexual harassment.

ARTICLE 5. CONDITIONS OF EMPLOYMENT
RULE 505. HARASSMENT PROHIBITED

EFFECTIVE DATE: 05/04/98
REVISED DATE: 08/14/02

2. Unwelcome or unwanted requests or demands for sexual favors, including subtle or blatant expectations, pressures, or requests for any type of sexual favor accompanied by expressed or implied or negative consequences concerning one's employment status.
3. Unwelcome verbal abuse, bantering or teasing that is sex oriented and is considered unacceptable by another individual. This includes innuendoes, jokes, and sexual oriented comments that offend others.
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 exchanging unwanted sexual attentions, or sexually oriented conduct that reduces personal productivity or safety on working time.
6. Condoning a working environment that is not free of sexually oriented innuendoes, or any other tasteless actions that could offend others.

F. GRIEVANCE ALLEGING SEXUAL HARASSMENT: Any perceived harassment shall be reported for either informal consultation or formal investigation. Any person may file a grievance alleging sexual harassment and may choose either informal consultation or formal investigation. Informal consultation is not a prerequisite to formal investigation.

G. GRIEVANCE PROCEDURES:

1. Persons alleging to have been subjected to sexual harassment or who have personal knowledge of sexual harassment during the course of their employment with the Court shall, within thirty (30) calendar days of the most recent alleged incident, 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 thirty (30) day timeline for filing complaints may be waived in writing by the Presiding Judge.
3. The completed form shall contain the location of the incident, the name of the individual whose behavior is alleged to have constituted sexual harassment, names of individuals who were witnesses of the alleged incident, the person's choice of action (i.e. informal consultation or formal investigation), and any other information which provides understanding of the incident or action giving rise to the complaint.

H. INFORMAL CONSULTATION:

1. The person receiving the report may serve in an advisory capacity to the person

reporting the perceived sexual harassment and may counsel with the subject of the report to resolve the problem. If the alleged subject of the report is not supervised by the person who received the report, the matter shall also be referred to the alleged subject's supervisor or other appropriate designee. If not already involved, the consultation process shall be discussed with the Court Administrator if the reporting employee is a Superior Court, justice court or municipal court employee; or the Chief Probation Officer if the reporting employee is a probation department employee.

2. If upon informal consultation the matter is resolved to the satisfaction of the person who reported sexual harassment, persons are no longer obligated to report further unless it is determined that allegations of sexual harassment are serious enough to warrant a formal investigation. If a resolution cannot be reached after informal consultation, the matter shall proceed as a formal investigation.
3. If the alleged subject of the report is not a Judge or employee of the Court, the matter shall be referred to the Court Administrator and/or Chief Probation Officer for immediate and appropriate action.

I. FORMAL INVESTIGATION:

1. The person receiving the report shall document the report and forward the documentation to the Court Administrator if the reporting employee is a Superior Court, justice court, or municipal court employee; or the Chief Probation Officer if the reporting employee is a probation department employee. The Court Administrator or Chief Probation Officer shall within seven (7) working days of receipt of the complaint 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.
2. If upon review a basis is found for the complaint, the Court Administrator or Chief Probation Officer shall issue a written determination in this regard including a finding as to whether the alleged conduct occurred and if so, whether it constituted sexual harassment. The written determination shall be forwarded to the subject's supervisor with a recommendation as to how the problem should be resolved. The Court Administrator or Chief Probation Officer 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 formal investigation as deemed appropriate.
3. 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. The complainant and the harasser may respond within seven (7) working days to the report and recommendation with copies to all persons who receive copies of the documentation.

4. If no basis is found for a complaint of sexual harassment, the person alleging to have been subjected to sexual harassment shall be so notified in writing by the Court Administrator or Chief Probation Officer. A person filing a grievance 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.

J. DISCIPLINE: Any person found to have subjected an individual to any form of sexual harassment shall be subject to disciplinary action up to and including dismissal for cause in accordance with these Rules.

K. 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 sexual harassment discussed pursuant to these grievance procedures shall not be disclosed to anyone not involved with the consultation or investigation.
3. All employees who are contacted regarding a sexual harassment complaint or report shall maintain this confidentiality.

L. RECORDS AND FILES: All documentation relative to sexual harassment consultations and/or investigations shall be maintained by the Court Administrator or Chief Probation Officer for not less than two (2) years in separate and confidential files. After this period, these documents may be destroyed unless the Presiding Judge has been notified that a discrimination action has been filed with the EEOC or that litigation has been initiated or the Presiding Judge otherwise determining to retain the record for a greater period of time.

M. RESPONSIBILITY:

1. Persons who believe that they have been subjected to sexual harassment as defined in this policy shall make their supervisor, Division Head or the Presiding Judge aware of such alleged harassment.
2. The Court Administrator or Chief Probation Officer shall enforce provisions of this policy and in the event of a complaint, promptly and thoroughly investigate it in a fair and 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.

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.
- N. SEXUAL HARASSMENT BY JUDGES OR SPECIAL JUDICIAL OFFICERS:** Sexual harassment 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 sexual harassment charges against Judges are appropriately referred to the Commission according to commission rules. Sexual harassment by special Judicial officers shall be grounds for disciplinary action up to and including dismissal or termination of contractual agreements.
- O. SEXUAL HARASSMENT BY VENDORS:** Sexual harassment by vendors shall be grounds for termination of vendor contracts.
- P. 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.
- Q. FALSE ACCUSATIONS:** Any person who knowingly or recklessly makes a false accusation of sexual harassment against any person shall be subject to disciplinary action up to and including dismissal.
- R. NATURE OF POLICY:** The Court Administrator and/or Chief Probation Officer 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.
- S. EDUCATION AND TRAINING:** The Court Administrator and/or Chief Probation Officer shall as necessary coordinate and ensure education and training for Judges and Judicial employees regarding this policy. Judges, administrators, supervisors, and chief court clerks shall receive training to assist them in recognizing sexual harassment and taking appropriate action pursuant to this policy.