

**STATE OF MARYLAND
JUDICIARY**

Policy on Equal Employment Opportunity and Harassment

I. PURPOSE

The purpose of this policy is to ensure compliance with all applicable federal, state, and local laws and regulations governing Equal Employment Opportunity (EEO) and harassment.

II. DEFINITIONS

A. Administrative Official (for purposes of this policy)

1. The Clerk of Court for the Court in which the employee works;
2. The Administrative Clerk or Administrative Commissioner of the District in which the employee works;
3. The director of the respective department or office within the Courts of Appeal, the District Court Headquarters, or Court-Related Agency in which the employee works; or
4. The State Court Administrator for employees within the Administrative Office of the Courts.

B. Complainant – An individual who initiates a complaint of discrimination, harassment, or retaliation under this policy.

C. Complaint Procedure – The process that allows a complainant to file a complaint when the complainant believes an act of discrimination harassment, or retaliation occurred.

D. Discrimination – A distinction in employment treatment, whether intentional or unintentional, illegally based on an individual's race, color, national origin, marital status, sexual orientation, gender identity or expression, gender, political or religious opinion or affiliation, physical or mental disability, protected genetic information, or age.

E. Equal Employment Opportunity (EEO) – The absence of partiality or distinction in employment treatment, so that the rights of all persons to

work and advance on the basis of merit, ability and potential are maintained.

- F. Office of Fair Practices** – The department within the Judiciary charged with the enforcement, development and conduct of plans, programs, and policies to establish and promote anti-harassment and non-discriminatory employment and personnel practices within the Judiciary.
- G. Harassment** – Behavior directed toward an individual that demeans, belittles, intimidates, or otherwise makes the individual feel uncomfortable or threatened, illegally based on the individual’s race, color, national origin, marital status, sexual orientation, gender identity or expression, gender, political or religious opinion or affiliation, physical or mental disability, protected genetic information, age, or because the employee opposed job discrimination or participated in an investigation or proceeding conducted under EEO statutes or this policy. To qualify as harassment, the behavior must have resulted in a tangible employment action being taken against the complainant, or the behavior complained of was so severe and pervasive as to create a hostile or intimidating environment from the perspective of a reasonable person.
- This definition includes sexual harassment, which is any unwanted physical, verbal, or visual sexual advances, requests for sexual favors, and other unwanted sexually oriented conduct when:
- Submission to such conduct is made either plainly or by inference a term or condition of an individual’s employment; or
 - Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or
 - Such conduct has the purpose of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.
- H. Probable Cause** – A determination by the Office of Fair Practices that, based on the facts and circumstances examined during an investigation, it is more likely than not that the complainant suffered discrimination, harassment, or retaliation as defined and prohibited by this policy.
- I. Respondent** – The party against whom a complaint of discrimination, harassment, or retaliation has been brought and who has been asked to respond to the allegations.

- J. Retaliation** – Actions taken against a complainant as reprisal for the complainant having filed a complaint of discrimination, harassment, or retaliation, or actions taken against a complainant as reprisal for the complainant serving as a witness in the investigation of a complaint of discrimination, harassment, or retaliation.

III. SCOPE

This policy applies to all employees of the Maryland Judiciary.

IV. POLICY STATEMENT

It is the policy of the Judiciary to provide employment and advancement opportunities to qualified individuals without regard to race, color, national origin, marital status, sexual orientation, gender, political or religious opinion or affiliation, physical or mental disability, or age, except where age is a bona fide job requirement. Under the Genetic Information Nondiscrimination Act, (GINA), discrimination by health insurers and employers based on individuals' genetic information is prohibited. This policy includes but is not limited to the following personnel practices:

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|----------------|----------------------------|
| • Recruitment | • Recall |
| • Selection | • Discipline |
| • Promotion | • Termination |
| • Demotion | • Reclassification |
| • Transfer | • Assignment of duties |
| • Compensation | • Training and development |
| • Layoff | • Use of leave |

The Judiciary is committed firmly to providing a work environment free from discrimination, harassment, and retaliation. Discrimination, harassment, and retaliation shall not be tolerated. Any employee found to have engaged in such activity shall be subject to disciplinary action up to and including termination of employment. The Judiciary reserves the right to take corrective action even if conduct is not illegal.

V. RESPONSIBILITY

The Office of Fair Practices is responsible for compliance and oversight of this policy, as well as overall EEO compliance and oversight within the Judiciary. The department will provide general and specific policy guidance to prevent harassment and retaliation and to assure equal opportunity. The Office of Fair Practices for the Judiciary is responsible for the development of equal

opportunity and anti-harassment/retaliation programs; providing periodic updates on EEO laws, etc.; monitoring employee recruitment and selection activities; and assisting the Administrative Officials to ensure compliance with federal, state and local EEO and anti-harassment laws and regulations. It is the responsibility of each Administrative Official to ensure that this policy is adhered to and that each location/department within the Judiciary is in compliance with all applicable laws and regulations governing EEO, harassment, and retaliation.

Employees have the right to work in an environment free from discrimination, harassment, and retaliation. It is the responsibility of managers and supervisors, as well as all other employees, to assist in the prevention of discrimination, harassment, and retaliation. All employees, from top management on down, are expected to act in a responsible and professional manner that encourages an environment free from discrimination, harassment, and retaliation.

VI. FILING COMPLAINTS

A complaint procedure exists for prompt and effective investigation into incidents of alleged discrimination, harassment, and retaliation. Employees are strongly encouraged to utilize this procedure.

All employees and applicants for employment will receive fair and impartial treatment in all phases of employment. Every employee has the right to file a complaint alleging discrimination, harassment, or retaliation. Every employee will be free from restraint, intimidation, harassment, interference, coercion, retaliation or reprisal because the employee has filed a complaint, testified, assisted, or participated in any phase of an investigation.

All employees and all levels of management in the Judiciary will cooperate fully with the Office of Fair Practices by furnishing information as requested regarding policies, regulations, and procedures that have a bearing on the complaint of discrimination, harassment, or retaliation. The Office of Fair Practices will determine what information is relevant during the investigation of the complaint, but in no event shall any person give information that cannot be legally disclosed.

A. Employee's Responsibility

1. Employees who feel they have been subjected to discriminatory, harassing, or retaliatory behavior are encouraged to address their questions and concerns with their supervisor or Administrative Official;

2. If that does not resolve the complaint, or when the supervisor and Administrative Official are the persons about whom the employee wants to complain, the aggrieved individual should complete a Complaint of Discrimination/Harassment/Retaliation Form (**Exhibit 1, Page 9**) and forward it to the Office of Fair Practices;
3. The complaint must be based on discrimination, harassment, or retaliation as defined in Section II, D, G, and J;
4. The complaint should be filed with the Office of Fair Practices within 120 days from the time the alleged act of discrimination, harassment, or retaliation took place, or 120 days from the time the aggrieved individual had knowledge of the alleged act;
5. All complaints must contain the following:
 - a. the full name and address of the complainant;
 - b. the full name and address of the department or person against whom the complaint is made;
 - c. a clear and concise statement of facts constituting the alleged act(s) of discrimination, harassment, or retaliation, including when the alleged act(s) took place;
 - d. a statement of how factors listed in Section II, D, G, or J are believed to have been a basis for the alleged discrimination, harassment, or retaliation;
 - e. the signature of the complainant and the date the complaint was filed.

B. Management's Responsibility

1. Once a supervisor becomes aware of an act or allegation of discrimination, harassment, or retaliation, the supervisor shall immediately notify the Administrative Official of the allegations in writing and submit a copy to Office of Fair Practices;
2. The Administrative Official shall notify Office of Fair Practices of alleged discriminatory, harassing, or retaliatory practices or behavior;
3. If the complaint is against the Administrative Official, instead of notifying the Administrative Official the supervisor shall notify the Office of Fair Practices.

4. In the event a charge of discrimination, harassment, or retaliation against the Judiciary is filed with any regulatory agency (such as the Maryland Commission on Human Relations or the U.S. Equal Employment Opportunity Commission), Office of Fair Practices is to be notified immediately by the individual receiving notice of the complaint.

C. Office of Fair Practices' Responsibility

The Office of Fair Practices will accept a complaint for investigation if it meets the requirements as outlined in Section VI, A. and will counsel the complainant of:

1. The right to amend the complaint to clarify and amplify allegations or to correct technical defects or omissions;
2. The right to file a complaint with other external administrative bodies (i.e. Maryland Commission on Human Relations and the U.S. Equal Employment Opportunity Commission);
3. When a complaint is filed with the Judiciary, the Office of Fair Practices shall contact the complainant, and the individual against whom the charges have been brought, promptly after it has been filed;
4. The Office of Fair Practices will conduct an impartial and thorough investigation;
5. The Office of Fair Practices shall investigate the complaint to ascertain all facts surrounding the complaint. All records, policies, as well as witnesses, and any other information shall be made available to the Office of Fair Practices during the conduct of the investigation;
6. Upon conclusion of the investigation, the Office of Fair Practices shall counsel the aggrieved individual again on available courses of action such as conciliation;
7. The Office of Fair Practices also shall make a recommendation to management (when applicable) regarding the appropriate action to be taken;
8. In the event the complainant reports alleged discriminatory,

harassing, or retaliatory behavior directly to the Office of Fair Practices, the Administrative Official shall be notified of the allegations and the results of the investigation.

VII. COMPLAINT WITHDRAWN

A complainant may withdraw his or her complaint at any time. After a complaint has been withdrawn, the Office of Fair Practices will notify in writing all parties involved of the withdrawal. The complainant must certify that the withdrawal was made without threat, abuse, restraint, intimidation, harassment, interference, coercion or reprisal.

VIII. CONCILIATION

- A. After an investigation is conducted and if “probable cause” is found, the Office of Fair Practices shall meet with the complainant and respondent in an effort to resolve the matter through conciliation.
- B. If an agreement is reached in conciliation, then the written agreement must be signed by all three parties. The complainant signs indicating acceptance of the agreement. The respondent signs acknowledging the mandate to perform or cease to perform certain actions. The Office of Fair Practices signs indicating that the agreement is in accord with Equal Opportunity mandates.
- C. Upon execution of the written conciliation agreement, the complainant will withdraw all other administrative complaints and legal suits which make the same allegations upon the same facts.
- D. Whenever negotiations with the respondent and the complainant break down and it appears impossible to reach an agreement that is satisfactory to all parties, the Office of Fair Practices shall advise the complainant and respondent in writing that efforts to conciliate will be terminated unless the respondent or complainant requests a resumption of those efforts in writing.
- E. Copies of the final written findings and recommendations for corrective action will be forwarded to the complainant, and to the respondent(s).
- F. Findings and recommendations must be forwarded no later than thirty (30) days after the completion of the investigation.

IX. RIGHT TO FILE A COMPLAINT WITH OTHER AGENCIES

The Office of Fair Practices shall inform the aggrieved individual of the right to file a complaint with the Maryland Human Relations Commission or the Equal Employment Opportunity Commission if the complainant is dissatisfied with the findings and recommendations of the Office of Fair Practices.

X. FILES

- A. The Office of Fair Practices shall establish a file containing all documents pertinent to all complaints including all documents authored by or received by the Administrative Official or designee.
- B. The initial file shall include, but not be limited to the following:
 - 1. Initial complaint form;
 - 2. All documents pertinent to the complaint and subsequent investigation;
 - 3. Findings and recommendations;
 - 4. Decision against which the complaint was filed;
 - 5. All documents authored by or received by the Administrative Official or designee; and
 - 6. The appeal documentation, when applicable.

XI. INTERPRETIVE AUTHORITY

The Judiciary Office of Fair Practices, in consultation with other parties as appropriate, is responsible for the interpretation of this policy.



**ADMINISTRATIVE OFFICE OF THE COURTS
FAIR PRACTICES DEPARTMENT
MARYLAND JUDICIAL CENTER
580 TAYLOR AVENUE – A2
ANNAPOLIS, MARYLAND 21401**

**Complaint Form
Discrimination/Harassment/Retaliation**

Complainant: _____
(The employee making the Complaint)

Location: _____
(Your office address)

Department/Unit: _____

Your preferred contact information: _____ (Phone) _____ (Email)

Respondent(s): _____
(The employee(s) against whom the Complaint is made)

Location: _____
(Respondent(s)'s office address if known)

Department/Unit: _____

STATEMENT OF FACTS

Basis for the alleged discrimination, harassment, and/or retaliation (Please check the applicable box(es) below)

- | | |
|--|--|
| <input type="checkbox"/> Race | <input type="checkbox"/> Sexual Orientation |
| <input type="checkbox"/> Color | <input type="checkbox"/> Gender Identity or Expression |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Political Affiliation |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Marital or Family Status |
| <input type="checkbox"/> Sex | <input type="checkbox"/> Genetic Information |
| <input type="checkbox"/> Age | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Other: _____ |

Date(s) of Action(s)/Knowledge of Occurrence: _____

Nature of Complaint: (Provide a clear and detailed statement of the facts which you believe show discrimination, harassment, and/or retaliation.)
