

SUPREME COURT OF THE STATE OF ARIZONA

FILED
OCT 19 1992
NOEL K. DESSAINT
CLERK SUPREME COURT
BY *llk*

IN THE MATTER OF)
ARIZONA JUDICIARY) **ADMINISTRATIVE ORDER**
SEXUAL HARASSMENT POLICY) **NO. 92 - 33**
_____)

Based upon the Arizona Constitution, Art. 6, § 3, authority of the Supreme Court to provide administrative supervision over all the courts of the State and as recommended by the Arizona Judicial Council,

IT IS ORDERED that the attached Arizona Judiciary Sexual Harassment Policy is adopted effective this date.

Dated the 19th day of October, 1992, at the Arizona Supreme Court, Phoenix, Arizona.

STANLEY G. FELDMAN
Chief Justice

Arizona Judiciary
Sexual Harassment Policy

Sexual harassment in any form will not be tolerated by the Arizona Supreme Court. Sexual harassment by judicial branch employees shall be grounds for disciplinary action, up to and including dismissal. Sexual harassment by judges shall be grounds for complaint to the Commission on Judicial Conduct pursuant to the rules of the Commission on Judicial Conduct. Sexual harassment by vendor employees shall be grounds for termination of vendor contracts.

Sexual harassment is sex discrimination which violates the individual rights of employees and state and federal law. Sexual harassment is also a form of employee misconduct which undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtones. Sexual harassment debilitates morale and interferes with productivity. Therefore, sexual harassment is unacceptable conduct in the workplace and will not be condoned.

Definition

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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;
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.

(29 Code of Federal Regulations 1604.11)

Duty to Report

Employees, applicants and other persons sexually harassed or having personal knowledge of sexual harassment by court employees or in court facilities are responsible for reporting such harassment in accordance with procedures applicable to each court. Employees are encouraged to report sexual harassment in a timely manner. Each employee has an affirmative duty to maintain a workplace free of sexual harassment and sexual intimidation. Any form of retaliation against an individual for reporting sexual harassment truthfully to the best of that employee's knowledge or for cooperating in an investigation of a sexual harassment complaint is prohibited and shall be grounds for severe disciplinary action. Any employee who knowingly or recklessly makes a false accusation of sexual harassment is likewise subject to disciplinary action up to and including dismissal.

Implementation

Judges and court administrators responsible for the administration of each court shall implement this policy individually or in conjunction with other courts or other governmental entities in the same county or jurisdiction by assuring procedures are in place which provide for the following:

1. Publication of this policy and corresponding procedures to every employee and in every court facility.
2. Multiple reporting options for persons complaining of sexual harassment.
3. Confidentiality of every complaint qualified by investigatory and disciplinary requirements.
4. Clear procedures for handling complaints which include informal and formal processes.
5. Formal investigation of non-judicial employees conducted by a trained investigator which includes interviews of all parties and all witnesses identified.
6. Referral to the Commission on Judicial Conduct for formal investigation of judges according to Commission rules.
7. Appropriate discipline following investigatory and disciplinary processes which are fundamentally fair to both the complainant and the subject of the complaint.
8. Prohibition of retaliation against the complainant and against a person who cooperates in a sexual harassment investigation and prohibition of knowing or reckless accusation against the subject of the complaint.

The required procedures shall be filed with and approved by the presiding judge of the superior court of the county in which each

court is located by June 1, 1993. Presiding judges shall report to the Supreme Court by July 1, 1993 regarding procedures which implement this policy.

Education

Presiding judges shall undertake to provide educational opportunities for judicial branch employees within their jurisdiction regarding this policy and regarding the characteristics of sexual harassment. Judges, managers and supervisors shall receive education which enables them to recognize sexual harassment and to take appropriate action pursuant to this policy and local procedures.