

FILED
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NOEL K. DESSAINT
CLERK SUPREME COURT
BY *[Signature]*

SUPREME COURT OF THE STATE OF ARIZONA

IN THE MATTER OF)
ARIZONA APPELLATE COURT)
SEXUAL HARASSMENT PROCEDURE)

ADMINISTRATIVE ORDER
NO. 93 - 32

Based upon the Arizona Constitution, Art. 6, § 3, authority of the Supreme Court to provide administrative supervision over all the courts of the State,

IT IS ORDERED that the attached Arizona Appellate Court Sexual Harassment Procedure is adopted effective this date and that this procedure and the policy adopted in Administrative Order 92-33 be distributed to all appellate court employees.

Dated the 8th day of July, 1993, at the Arizona Supreme Court, Phoenix, Arizona.

STANLEY G. FELDMAN
Chief Justice

Arizona Appellate Court
Sexual Harassment Procedure

A. REPORTING OPTIONS

Any perceived sexual harassment shall be reported for either informal consultation or formal investigation. The person reporting sexual harassment shall have the option to choose either informal consultation or formal investigation. Informal consultation is not a prerequisite to filing an Employee Conduct Complaint form which prompts a formal investigation.

1. Supreme Court employees may initiate informal consultation through the employee's immediate supervisor, any of the supervisor's superiors, or the Supreme Court's Human Resources Officer. Formal investigation may be initiated by filing an Employee Conduct Complaint form signed by the complainant with the Supreme Court's Human Resources Officer.

2. Court of Appeals employees may initiate informal consultation through the employee's immediate supervisor, any of the supervisor's superiors, or the Chief Judge of the appropriate division or the Chief Judge's designee. Formal investigation may be initiated by filing an Employee Conduct Complaint form signed by the complainant with the Chief Judge of the appropriate division or the Chief Judge's designee.

Persons who are not employees of the Arizona appellate courts may report perceived sexual harassment by appellate court employees in the course of their employment to any appellate court supervisor. A supervisor receiving such a report shall document the report and forward this documentation to the Human Resources Officer if the subject of the report is a Supreme Court employee or to the appropriate Chief Judge or Chief Judge's designee if the subject of the report is a Court of Appeals employee.

B. INFORMAL CONSULTATION

The person receiving the report may serve in an advisory capacity to any person reporting perceived sexual harassment pursuant to this policy and may counsel informally with the subject of the report to resolve the problem. If not already involved, the consultation process should be discussed with the Supreme Court's Human Resources Officer if the reporting employee is employed by the Supreme Court or with the Chief Judge of the appropriate division or the Chief Judge's designee if the reporting employee is employed by the Court of Appeals.

1. If the matter is resolved to the satisfaction of the person who reported sexual harassment, all persons are relieved from any duty to report further unless any person who receives the report or who is consulted concerning the report finds the allegations of sexual

harassment to be serious enough to warrant a formal investigation.

2. If the subject of the report is not supervised by the person who receives the report, the matter shall be referred to a supervisor who supervises both the reporting employee and the subject of the report or, if there is no such supervisor, to the Human Resources Officer or the appropriate designee.
3. If the matter cannot be resolved because the parties or the person receiving the report do not agree upon a resolution, the matter shall proceed for formal investigation. If such a report involves alleged harassment by a judge, the matter shall be filed with the Commission on Judicial Conduct.
4. If the subject of the report is not an employee of the appellate courts, the matter shall be referred to the Human Resources Officer or the appropriate designee for immediate and appropriate action in consultation with the Legal Services Officer.

C. FORMAL INVESTIGATION

An Employee Conduct Complaint form, describing the conduct perceived as sexual harassment may be filed with the Supreme

Court's Human Resources Officer or the Chief Judge or the Chief Judge's designee as provided in paragraph A for formal investigation or with the appropriate federal or state agency. Complaints of sexual harassment involving the Chief Judge's designee or the Human Resources Officer shall be filed with the Chief Judge or the Supreme Court Legal Services Officer respectively, who shall proceed as set forth below in place of the Chief Judge or Human Resources Officer.

1. The person responsible for investigating any sexual harassment complaint or with recommending or instituting any disciplinary action shall proceed in a fair and appropriate manner.
2. The investigator shall work with appropriate management personnel to obtain and evaluate all evidence relevant to the report. The investigator may review personnel records and other documents to acquire all pertinent facts. The investigator shall separately interview the complainant, the alleged harasser and any witnesses they identify.
3. The investigator shall issue a written report which includes a finding as to whether the alleged conduct occurred, a conclusion as to whether the conduct which occurred was sexual harassment, and a recommendation of

any appropriate corrective or disciplinary action up to and including dismissal.

4. A copy of the investigator's report shall be forwarded to the complainant, to the appropriate supervisor in the complainant's chain of supervision, to the alleged harasser and to the appropriate supervisor in the alleged harasser's chain of supervision, and if appropriate, to the Administrative Director, and to the Chief Justice or the Chief Judge of the respective division of the Court of Appeals.
5. The complainant and the alleged harasser may respond in writing within 7 working days to the investigator's report with copies to all persons who received copies of the report.

D. DISCIPLINARY ACTION

Responsible officials in the alleged harasser's chain of supervision shall consider the investigator's report and proceed with appropriate disciplinary action if disciplinary action is needed. Prior to any disciplinary action for sexual harassment, the alleged harasser shall be advised of the grounds for discipline and have an opportunity to respond.

E. STATUS OF EMPLOYEES

These procedures shall not be construed to change the status of any employee employed on an "at will" basis.

F. CONFIDENTIALITY

Information concerning sexual harassment discussed pursuant to this procedure shall not be disclosed to anyone not involved with a consultation or investigation. All employees who are contacted regarding a sexual harassment report or complaint shall be instructed to maintain this confidentiality. The name of a reporting employee may only be disclosed to the subject of the report when necessary to the consultation process, or if the matter proceeds to formal investigation, when the alleged harasser is necessarily informed of the details of the sexual harassment complaint in the course of the investigation and in the investigator's report.

G. RECORDS AND FILES

All documentation and materials relative to sexual harassment consultations and investigations shall be maintained for two years in separate and confidential files. After this period, these documents shall be destroyed unless the Court has been notified that a discrimination action has been filed with the EEOC or that litigation has been commenced.