

IN THE AVONDALE CITY COURT  
IN THE COUNTY OF MARICOPA IN AND FOR THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
	)	Administrative Order
	)	
Avondale City Court Discrimination and	)	
Harassment Policy	)	No. 2018 - <u>003</u>
	)	
	)	

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The City of Avondale and Avondale City Court prohibits conduct which creates an intimidating, hostile, or offensive work environment and is committed to providing an environment free of discrimination, harassment, sexual harassment and violence.

**A. Policy.**

Discrimination and harassment, including sexual harassment, in the workplace are prohibited. Employment discrimination and harassment based on race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation are forbidden. Such conduct is grounds for discipline of judicial branch employees, up to and including dismissal; grounds for discipline of judges by the Commission on Judicial Conduct; and grounds for termination of vendor contracts when the conduct is by a vendor employee.

Every judge and judicial branch employee must strive to create a work environment free of discrimination and harassment. As required by the Code of Judicial Conduct and the Code of Conduct for Judicial Employees, all judges and judicial branch employees must avoid bias, prejudice and harassment in the performance of their duties, treat other judicial branch employees, court users, and the public with dignity and respect, and comply with this policy.

Sexual harassment is sex discrimination that violates individual rights and state and federal law. Sexual harassment is also a form of misconduct that undermines the integrity of the employment relationship and of the court itself. All judges and judicial branch employees must be able to work in an environment that is free from unsolicited and unwelcome sexual overtures and innuendo. Sexual harassment debilitates morale and interferes with productivity. Therefore, sexual harassment is unacceptable conduct in the workplace.

**B. Definitions.** In this section, the following definitions apply:

“Discrimination” is differing treatment of an individual, involving any term or condition of employment, based on that individual's race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation. Discrimination based on these protected classes is prohibited by state and federal law. Courts have held discrimination against an individual because of sexual orientation or because of gender identity, including transgender status, is discrimination because of sex in violation of Title VII.

“Harassment” is verbal or physical conduct or any form of communication that is directed at an individual because of his or her race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation and that is sufficiently severe, pervasive, or persistent to have the purpose or effect of creating a hostile environment. Courts have held harassment of an individual because of sexual orientation or because of gender identity, including transgender status, is harassment because of sex in violation of Title VII.

Harassment in violation of this policy may include, but is not limited to, the following behavior and conduct:

1. Offensive physical actions by an employee/member of the public toward another employee/member of the public, including, assault.
2. Offensive verbal actions by an employee/member of the public toward another employee/member of the public, including derogatory, prejudicial, stereotypical or otherwise offensive comments, slurs, jokes, posters, cartoons, pictures, e-mails, voice mail or any form of communication or computer media where a person is depicted in an insulting or demeaning manner.

“Sexual harassment” includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, other verbal or physical conduct or any other form of communication of a sexual nature when:

1. Submission to that conduct or communication is made an explicit or implicit term or condition of obtaining or continuing employment.
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in employment decisions affecting the individual.
3. The conduct or communication has the purpose or effect of substantially interfering with an individual's employment or of creating an intimidating, hostile, or offensive environment.

Sexual harassment may involve relationships of unequal power. Such situations might contain elements of coercion, such as when compliance with requests for sexual favors becomes a criterion for granting or denying privileges or for favorable or unfavorable treatment on the job; however, sexual harassment also might involve relationships among peers, such as when

repeated unwelcome advances or unwelcome sexual comments by one co-worker toward another co-worker has a harmful effect on the latter's ability to perform his or her job. Sexual harassment also might involve employee behavior directed at nonemployees or non-employee behavior directed at employees. Sexual harassment may occur when it is directed at members of the opposite gender or when it is directed at members of the same gender.

“Workplace” is any location where a judge or a court employee is present due to court employment; including locations outside the courthouse or court office, travel to and from those locations, and court sponsored events.

“Retaliation” is an adverse action (e.g., termination, denial of promotion, refusal to hire, unjustified discipline or evaluation, etc.) taken against an individual to deter protected activity or for engaging in protected activity. Protected activity consists of: (1) opposing conduct reasonably believed to constitute discrimination, including harassment, which violates a nondiscrimination statute, this code section, or court policy; (2) reporting such conduct; or (3) testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination complaint.

### **C. Duty to Report.**

Employees, applicants, and other persons discriminated against or harassed or who have personal knowledge of discrimination or harassment by judges or judicial branch employees in the course of their duties or by anyone in court facilities are responsible for promptly reporting such conduct to the Presiding Judge, the Court Administrator, the Court Supervisor, the Senior Court Clerk, or any representative from the Human Relations (H.R.) Department for the City of Avondale. Each employee has an affirmative duty to maintain a workplace free of discrimination, harassment, and intimidation. Any form of retaliation against an individual for reporting discrimination or harassment truthfully to the best of that person’s knowledge is prohibited and shall be grounds for disciplinary action, which may include termination. A false and malicious report of harassment, discrimination or retaliation (as opposed to a report that, even if erroneous, is made in good faith) will be the subject of appropriate disciplinary action.

Upon receipt of a complaint to the Presiding Judge, the Court Administrator, the Court Supervisor, or the Senior Court Clerk, the complaint shall be immediately reported to the Human Relations (H.R.) Director for the City of Avondale.

### **D. Implementation.**

1. This policy shall be posted in the Avondale City Court employee break area and in the front lobby of the Avondale City Court. This policy shall also be posted on the Avondale City Court’s

website. Each current employee and all Pro-Tem Judges shall review this policy with their direct supervisor and sign an acknowledgement which demonstrates an understanding of this policy, and the employee's receipt of the policy. Each new employee shall review this policy with their direct supervisor during the Avondale City Court's New Employee Orientation and sign an acknowledgement which demonstrates an understanding of this policy, and the employee's receipt of the policy.

2. Prohibited conduct includes all forms of discrimination and harassment based on race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation. Prohibited conduct includes any form of sexual harassment as defined above. Prohibited conduct also includes any form of retaliation as defined above. Harassment may also mean an act or a series of acts of an offensive nature between employees, that (i) are offensive to a reasonable person; (ii) are offensive to the employee subjected to the harassing conduct; and (iii) serve no legitimate purpose. Harassment in violation of this policy may include, but is not limited to, the following behavior and conduct:

a. Offensive physical actions by an employee toward another employee, including, assault.

b. Offensive verbal actions by an employee toward another employee, including derogatory, prejudicial, stereotypical or otherwise offensive comments, slurs, jokes, posters, cartoons, pictures, e-mails, voice mail or any form of communication or computer media where a person is depicted in an insulting or demeaning manner.

3. Any court employee who experiences discrimination or harassment, or those who might observe discrimination or harassment, shall promptly report such conduct to the Presiding Judge, the Court Administrator, the Court Supervisor, the Senior Court Clerk, or any representative from the Human Relations (H.R.) Department for the City of Avondale.

Any court customer who experiences discrimination or harassment, or those who might observe discrimination or harassment, shall promptly report such conduct to the Court Administrator.

4. Any court employee or court customer who experiences discrimination or harassment, or those who might observe discrimination or harassment, by the Presiding Judge or any Pro-Tem Judge shall promptly report such conduct to the Court Administrator. The Court Administrator shall promptly assist the individual in completely a referral to the Commission on Judicial Conduct for investigation of alleged misconduct of the Presiding Judge or any Pro-Tem Judge.

5. Upon receipt of a complaint to the Presiding Judge, the Court Administrator, the Court Supervisor, or the Senior Court Clerk, the complaint shall be immediately reported to the Human Relations (H.R.) Director for the City of Avondale. The complaint will then be promptly

investigated in accordance with the City of Avondale's Workplace Harassment and Discrimination Policy (Chapter 15).

6. A prompt, thorough, and impartial investigation of the complaint shall be conducted by a trained investigator through the City of Avondale's Human Resources Department.

7. All allegations of workplace harassment and discrimination will be thoroughly investigated. to the extent possible, the identity of the employee alleging conduct in violation of this policy will be treated as confidential, as well as the identity of (i) any witness(es) and (ii) the alleged violator. All city employees who are involved with or aware of investigations are expected to maintain the same level of confidentiality.

8. The Avondale City Court has a responsibility to all employees to ensure a thorough investigation of all allegations of conduct in violation of this policy, which may include interviews of alleged offenders and witnesses. When the investigation is complete, employees involved with the investigation will be informed of the outcome.

9. All reporting employees or witnessing employees will be protected from retaliation.

**E. Education.**

Judges and judicial branch employees will receive educational opportunities regarding this policy statement.

Dated this 19<sup>th</sup> day of September 2018.

  
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Craig L. Jennings  
Presiding Judge

