

Adopted: 
David Yamasaki, Chief Executive Officer
and Clerk of the Superior Court
Revision Date: July 2, 2018

Policy of the Superior Court of California, County of Orange

Title: Policy Prohibiting Harassment, Discrimination & Retaliation in Employment

Purpose: To have a workplace that is free of harassment, discrimination, and retaliation in any form and where people are treated with respect and dignity.

Policy: The Orange County Superior Court is committed to preserving a workplace free of harassment, discrimination, and retaliation in compliance with state and federal requirements including Title VII of the 1964 civil Rights Act, the California Fair Employment and Housing Act, and sound management principles. The Court strictly prohibits illegal discrimination and harassment of employees, applicants, interns, volunteers and contractors by coworkers or third parties, as well as supervisors and managers. All Superior Court employees including interns and volunteers, are expected to conduct themselves in a professional and courteous manner at all times in compliance with applicable law and the Code of Ethics for Court employees.

It is the policy of Orange County Superior Court to prohibit discrimination and harassment based on an individual's race, color, religious creed, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth, or breastfeeding), gender, gender identity, gender expression, transgender status, national origin (which includes physical, cultural, or linguistic characteristics associated with a national origin group; marriage to or association with persons of a national origin group; and names associated with a national origin group), ancestry, age, marital status, physical disability, mental disability, medical condition (cancer-related or genetic characteristics), sexual orientation, genetic information (including family medical history), citizenship, military or veteran service, or any other basis prohibited by law (hereinafter referred to as "Protected Characteristics"). Discrimination includes any selection or employment related policy, practice, procedure or decision involving an applicant, employee, apprentice, intern or volunteer based upon a Protected Characteristic.

It is the policy of Orange County Superior Court to prohibit harassment in any form, including verbal, physical, or visual harassment. Harassment includes communications made by means of an electronic act, such as a text message, e-mail, or social media post (refer also to the Orange County Superior Court's Social Media Policy and Guidelines). Such harassment may include, but is not limited to, slurs; epithets; derogatory jokes; degrading comments; gestures or physical conduct; stalking, or threats that an employee's job, advancement, compensation, assignment, or other benefit is dependent on toleration of harassment.

Impermissible conduct also includes, but is not limited to, making unwelcome sexual advances and requests for sexual favors where (1) submission to such conduct is made an explicit or implicit term or condition of employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or

offensive work environment. A Violation of the Court's harassment policy also results when widespread sexual favoritism by a Court employee in a position of authority substantially alters a third party's working conditions and results in a hostile work environment. Impermissible conduct by Court employees or persons with whom the Court contracts to do business, such as independent contractors, will not be tolerated when the conduct is directed at or involves an applicant for Court employment, a Court employee, or a contractor.

Violations of this policy also occur if the Court or a Court employee engages in abusive conduct. "Abusive conduct" as defined in California Government Code Section 12950.1 is: "[C]onduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive and unrelated to the employer's legitimate business interests." Such conduct may include: 1) repeated infliction of verbal abuse; 2) verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; or 3) the gratuitous sabotage or undermining of a person's work performance.

Consistent with state and federal laws, Orange County Superior Court provides reasonable accommodations for employees on the basis of physical or mental disability, pregnancy, breastfeeding, and religion.

Retaliation Prohibited

This policy prohibits retaliation against an employee or applicant who in good faith reports, opposes, or participates in any manner in an investigation of an alleged violations of this policy. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment.

Any substantiated behavior that is found to be retaliation under this policy will be considered a violation of this policy and will result in serious corrective action up to and including possible termination of employment.

Conflicts of Interest Caused by Consensual Relationships:

A consensual relationship, for purposes of this policy, is defined as one in which two individuals are involved or have been involved, by mutual consent, in a dating, romantic, physically intimate and/or sexual relationship. These relationships pose a potential conflict of interest in the employment context when one individual has responsibility for supervising, directing, overseeing, evaluating, or influencing the employment status of the other. A consensual relationship may lead to an abuse of power, coercion, exploitation, favoritism, or unfair treatment of others.

Because of the potential for conflict of interest, and employee with supervisory responsibilities who is in or enters into a consensual relationship with someone over whom they have supervisory, oversight, or evaluative responsibilities shall notify their supervisor or manager as soon as possible so that effective steps can be taken to eliminate any conflict of interest. The subordinate employee may disclose the relationship to the supervisor's supervisor or manager or Human Resources. Means to eliminate conflicts of interest may include, but are not limited to: transfer of either individual to another position; transfer of supervisory oversight or evaluative responsibilities to another supervisor or manager; or providing an additional layer of oversight to the supervisory role.

Procedures for Consensual Relationships Disclosures:

When a manager or supervisor receives information regarding a consensual relationship in the workplace, involving an employee with supervisory, oversight or evaluative responsibilities over the other involved employee, the manager or supervisor shall immediately report the information to the Chief of Human Resources or Human Resources' Employee Relations Unit and provide copies of any written documentation. The Chief of Human Resources or designee shall consult with appropriate Court managers to identify an effective method for eliminating the actual or potential conflict of interest. This determination will be communicated to both parties involved in the consensual relationship and to supervisors and managers with a need to know.

Harassment/Discrimination/Retaliation Complaint Process:

Anyone who believes they have been discriminated against or harassed due to a Protected Characteristic in connection with their employment with Orange County Superior Court or application for employment with the Court, or has been retaliated against in violation of this policy, or is aware of such discrimination, harassment, or retaliation should immediately report the incident using the Court's Equal Employment Opportunity (EEO) Complaint form. Submit the completed form to Superior Court Human Resources, Attn: Chief of Human Resources or Employee Relations Unit, Central Justice Center, or to the Court's Chief Executive Officer. Supervisors and managers are required to immediately report any complaints of alleged discrimination or harassment they receive, or any discrimination or harassment they observe, to the Chief Human Resources Officer so prompt action can be taken.

A prompt and, to the extent practicable, confidential investigation will be conducted by impartial, qualified personnel.

Anyone who is found by the Court to have violated this policy, or whose conduct is found otherwise to be inappropriate, will be subject to appropriate corrective action, including possible termination of employment. For questions, contact:

Chief Human Resources Officer Shannon Mays-Fontaine (657) 622-7702 smays@occourts.org
Human Resources/Employee Relations (657) 622-7735
Employee Communications Line-- Confidential Reporting ecl@occourts.org
(See <http://hub.occourts.org/hr/relations/Pages/Home.aspx>)

Employees and applicants for employment may also file discrimination or harassment complaints with the California Department of Fair Employment and Housing (DFEH) or with the United States Equal Employment Opportunity Commission (EEOC). Instructions for filing a complaint can be found on the web sites for these organizations.

Guidelines

Regarding all forms of harassment, implementing the following guidelines will facilitate the creation and maintenance of a professional workplace:

Watch what you say. Something that may not be offensive to you may offend someone else. Consider that comments or jokes regarding a Protected Characteristic may be offensive to the subject of the

comment and/or those who may see it or overhear it. In addition, religious proselytizing (trying to convert a colleague to your religion) while on the job is not permissible.

Be sensitive. Think before you speak or act. Remember, it is the impact of your comments or behavior on your colleague, not your intent that matters.

Keep things job-related. Be sure to bring a professional attitude to work.

Speak up. If one of your colleagues communicates in a way you find offensive, one approach is to calmly let them know it. You may explain what was said or done that was offensive to you and ask politely that it stop. However, the target of harassing conduct is never required to confront the harasser and may instead file a complaint under this policy. It is the policy of the Court to foster an atmosphere where people can work together courteously, respectfully and professionally.