

SUPREME COURT OF COLORADO

OFFICE OF THE CHIEF JUSTICE

**Directive Concerning Colorado Judicial Department Policies for Independent Contractors,
Other Persons Conducting Business with the Judicial Department and Judicial Officers**

This directive shall apply to all independent contractors, anyone conducting business with the Colorado Judicial Department and to Judges as specified in policies herein. Violation of any policy in this Chief Justice Directive shall be grounds for revocation of any contract between a third-party and the Colorado Judicial Department or reporting to the appropriate disciplinary authority. This directive is adopted to assure compliance with Colorado Judicial Department rules, policies and procedures.

Done at Denver, Colorado this 1st day of July, 2021 effective July 1, 2021.

/s/

Brian D. Boatright, Chief Justice

COLORADO JUDICIAL DEPARTMENT
ANTI-HARASSMENT AND ANTI-DISCRIMINATION POLICY,
AND POLICY ON ROMANTIC RELATIONSHIPS BETWEEN
JUDICIAL OFFICERS AND JUDICIAL EMPLOYEES

SUPREME COURT OF THE STATE OF COLORADO

Adopted June 1, 1995
Amended March, 1996
Amended May, 2001
Amended July, 2008
Amended May, 2011
Amended July, 2013
Amended July, 2017
Amended October, 2020
Amended July, 2021

The Colorado Judicial Department will not tolerate, condone or allow harassment by anyone working for or conducting business with the Judicial Department. The Judicial Department strives to provide and maintain a professional and supportive work environment for all. Personal relationships of a romantic and/or sexual nature between judicial officers and subordinates can create problems in the workplace including conflicts of interest, the appearance of favoritism or preferential treatment, and an increased potential for claims of harassment and/or retaliation. This policy prohibits conduct or communication that is harassing or discriminatory in the workplace or during any work-related activity, but a contractor, court customer, anyone conducting business, or judicial officer may violate this policy if they engage in conduct or communication that is harassing or discriminatory and that conduct or communication impacts the workplace in any way, including through social media.

Definitions

- (1) **Harassment.** Harassment is any unwelcome or offensive conduct, verbal or physical, based on a person's race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability if such conduct adversely affects that person's work performance or employment status, or otherwise creates an intimidating, hostile or offensive work environment. Examples of harassment include but are not limited to: derogatory comments, remarks, gestures, or jokes, including the same contained in electronic communications and media, relating to a person's race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability, racial or ethnic slurs, and negative epithets.
- (2) **Sexual Harassment.** Sexual harassment is specifically defined as any type of unwelcome or offensive conduct based on an individual's sex, whether or not the conduct is sexual in nature, where: 1) submission to or rejection of this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, promotion or other aspects of employment; or 2) this conduct unreasonably interferes with a person's employment or creates an intimidating, hostile or offensive work environment.

Examples of prohibited sexual harassment include: derogatory comments, remarks, gestures or jokes about a particular sex; demands for sexual favors in exchange for favorable treatment or continued employment; unwanted sexual advances or propositions; unwelcome touching;

graphic, verbal commentary about an individual's body, sexual prowess or sexual deficiencies; repeated sexual comments, sexual gestures, sexual jokes, leering, whistling, or other verbal abuse of a sexual nature; the display in the workplace of sexually suggestive objects or pictures; and using electronic media and communications to send or receive sexually suggestive messages and/or images.

- (3) **Discrimination.** Discrimination is any treatment or distinction in favor of or against a person based on the person's actual or perceived race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability. Discrimination also includes treating someone unfavorably because the person is married to or otherwise associated with a person of a certain race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability.

Relationships Between Judicial Officer and Judicial Employees

Where employees and/or judicial officers are married to each other, living together, or otherwise engaged in a consensual romantic and/or sexual relationship, they shall not hold a position in which: the judicial officer would directly or through the chain of command:

- a. Exercise supervisory, appointment or dismissal authority over the other person,
- b. Be in a position to take disciplinary action against the other person, or
- c. Otherwise have a direct effect on the terms and conditions of the employment of that person;

Where a romantic and/or sexual relationship exists between a Judicial officer and an employee, both parties involved shall immediately notify the Administrative Authority or the Human Resources Director of the SCAO. The Administrative Authority shall attempt to accommodate the relationship, if necessary and practical, by altering the reporting structure or by transferring or reassigning one or both persons so that the conflict of interest no longer exists. If no opportunity exists for reassignment, voluntary demotion or transfer of one of the parties shall be requested to resign from his or her employment with reinstatement rights as provided by the Colorado Judicial System Personnel Rules.

Complaint Procedure

Any judicial officer who believes he or she has been subjected to harassment or discrimination is strongly encouraged to report the offending behavior so appropriate action may be taken. If the party engaging in conduct that subjects the judicial officer to harassment or discrimination is another judicial officer, the report must be made to the Commission on Judicial Discipline. If a judicial officer observes conduct involving a judicial employee, or receives a complaint of conduct that violates this policy or Rule 20.B. of the Colorado Judicial System Personnel Rules, Anti-Harassment and Anti-Discrimination Policy, the judicial officer shall report the conduct as provided below.

- (1) **Form of the Report.** The initial report may be either a written or verbal complaint. Written reports should include the date, time, location, and a description of the event or behavior complained of, the names of the parties involved and of any witnesses and should be signed by the complaining party ("complainant"). The recipient of the report must provide copies of the report (marked personal and confidential) to 1) the Chief Judge, Court Executive, and/or 2) to the Human Resources Division of the State Court Administrator's Office. If the complaint alleges a violation by the Chief Judge, Court Executive, or the Chief Probation Officer, a copy also shall be provided to the Human Resources Director of the State Court Administrator's Office. Investigations of complaints against Judges shall be referred to the Commission on Judicial Discipline.
- (2) **Confidentiality.** All reports of harassment shall be kept in confidence as much as possible, but there is no guarantee of confidentiality for any report of harassment and/or discrimination. The investigator will share information regarding the report only as necessary to investigate the complaint and respond to any legal and/or administrative proceedings arising out of or relating to the report. All complaints of harassment and discrimination as well as the outcome and findings resulting from any investigation thereof are to be maintained in accordance with

the Colorado Supreme Court Rule, Chapter 38, Rule 2 Public Access to Administrative Records.

If a report of harassment and/or discrimination is made against a Judge or Justice, the Human Resources Division of the State Court Administrator's Office shall confer with the Colorado Commission on Judicial Discipline regarding the report and the allegations made. The Human Resources Division of the State Court Administrator shall, at the request of the Colorado Commission on Judicial Discipline, provide information regarding the reporting party or parties and witnesses.

- (3) **Investigation.** Reports of harassment and discrimination shall be referred to the Human Resources Division of the State Court Administrator's Office for investigation. In some instances, an initial inquiry will be completed as a preliminary review by the Human Resources Division to determine whether there is cause for a full investigation. A full investigation will include conferences with the complainant, the alleged perpetrator, and any witnesses to the incident. Any party involved in a harassment complaint may submit any documentation they believe to be relevant to the matter at issue to the investigating authority.

If a report of harassment and/or discrimination is made against a Judge or Justice, the Human Resources Division of the State Court Administrator's Office shall, at the request of the Colorado Commission on Judicial Discipline, provide transcripts of the conferences and copies of documentation provided by any party involved to the Colorado Commission on Judicial Discipline.

Retaliation

Retaliation against any individual who has filed a report or complaint, witnessed a report, assisted, or participated in any manner in an investigation, proceeding, or hearing under this policy will not be tolerated. Retaliation is a serious violation of this policy and should be reported promptly. Reports of retaliation are taken seriously and may be the subject of a separate investigation.

Notice to Complainant

The complainant will be advised when the investigation has been completed. If no information has been provided to the complainant within 45 days of the initial report of the complaint, the complainant may contact the Director of the Human Resources Division. The Human Resources Division will determine the status of the investigation, will begin its own investigation if necessary, and will provide a status report to the complainant. When the investigation has been completed, the investigator will notify the complainant. Investigation findings are not subject to appeal or review procedures set forth in the Colorado Judicial System Personnel Rules. At the discretion of Human Resources, the accused may also be notified when the investigation is complete.

Sanctions

Failure to comply with this policy may result in cancellation of a contract, or any other appropriate action deemed necessary following an investigation of claims.

COLORADO JUDICIAL DEPARTMENT
DRUG FREE WORKPLACE POLICY

SUPREME COURT OF THE STATE OF COLORADO

Adopted September, 1998
Amended July, 2008
Amended May, 2011
Amended February, 2013
Amended July, 2017
Amended October, 2020

Policy

To ensure a safe, effective, productive, and efficient working environment, as well as to comply with federal and state law, it is the policy of the Judicial Department that all contractors and judicial officers are prohibited from having in their system alcohol, illegal drugs, including state-authorized marijuana, or any medically unauthorized prescription drugs while at any Judicial Department work site, state owned parking lot, at any off-site location during work related activities or other state business or in any state owned/leased vehicle also is prohibited. The unlawful possession, manufacture, dispensation, use, sale, purchase, storage or transfer of controlled substances, or drug paraphernalia, at any Judicial Department work site, at any off-site location during work related activities or other state business or in any state owned/leased vehicle also is prohibited.

"Controlled substances" are those substances listed in Schedules I-V of Section 202 of the Controlled Substance Act, 21 U.S.C. § 812, as amended. "Drug paraphernalia" is any equipment, product or material primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance."

The use of illegal drugs off-duty also is strictly prohibited as is the off-duty abuse of over-the-counter or prescription drugs, state authorized marijuana, or alcohol where such use adversely affects job performance.

Over the counter medication should not be used when at any Judicial Department work site, state owned parking lot, at any off-site location during work related activities or other state business or in any state owned/leased vehicle if the use of a medication could compromise performance of professional duties.

Reporting Requirements

Any violation or appearance of a violation of this policy shall be promptly reported to the Court Executive, the Chief Probation Officer, the Chief Judge of the court, or the Human Resources Division.

Sanctions

Failure to comply with this policy may result in cancellation of a contract, or a referral of the matter to Judicial Discipline.

COLORADO JUDICIAL DEPARTMENT POLICY FOR MAINTAINING A NON-VIOLENT WORKPLACE

SUPREME COURT OF THE STATE OF COLORADO

Adopted April 29, 1998
Amended May, 2011
Amended July, 2017
Amended July, 2018
Amended April, 2019
Amended, October 2020

Policy

The Judicial Department strives to maintain a work environment that is free from intimidation, threat, or acts of violence. Weapons are prohibited from being brought into any judicial department work site, state owned parking lot, any off-site location during work-related activities or other state business, or any state owned/leased vehicle, except in the following circumstances:

- a. When authorized by department rule, policy, or by the administrative authority;
- b. When possessed for the purpose of carrying out necessary, legitimate duties and functions of a person's job;
- c. When the weapon is a knife or other cutting instrument designed and possessed for kitchen use;
- d. When the weapon consists of a material agent designed and carried for personal defense.

A "weapon" includes any firearm or facsimile, whether operable or not, and any device, instrument, material, or substance capable of inflicting injury when used either offensively or defensively.

Judicial Officer Exception to Firearms Prohibition

Judicial officers are prohibited from possessing firearms at any judicial department work site, during work-related activities or other state business and in any state owned/leased vehicle, except as permitted in writing by the Chief Judge or Chief Justice. A judicial officer with appropriate legal authority to carry a firearm may request permission from the Chief Judge or Chief Justice who has administrative authority over the judicial officer. Any permission granted must be in writing for a specific time and for a specific reason or purpose. Such permission may be revoked at any time without reason.

Complaints

Any judicial officer who feels he/she has been subjected to any behavior prohibited by this policy, or has witnessed or has knowledge of a violation of this policy, shall immediately report it to his/her Administrative Authority, or to the Director of Human Resources. If an imminent threat exists, local law enforcement should also be contacted. All reports must be documented in writing, with a copy provided to the Human Resources Division, and shall be investigated, with action taken as appropriate, including possible referral to the Commission on Judicial Discipline for judicial officers.

Retaliation

Retaliation against any individual who has filed a report or complaint, witnessed a report, assisted, or participated in any manner in an investigation, proceeding, or hearing under this policy will not be tolerated. Retaliation is a serious violation of this policy and should be reported promptly. Reports of retaliation are taken seriously and may be the subject of a separate investigation.

COLORADO JUDICIAL DEPARTMENT
WORKERS' COMPENSATION DESIGNATED
MEDICAL PROVIDER

SUPREME COURT OF THE STATE OF COLORADO

Adopted April 29, 1998
Amended May, 2011
Amended July, 2017
Amended October, 2020
Amended July 2021

The following Workers' Compensation Designated Medical Provider policy applies to all judicial officers.

Policy

In the event that a judicial officer incurs a work-related injury or illness, this policy is notice that each Judicial District or Department (Trial Courts, Court of Appeals, Supreme Court, State Court Administrator's Office) has designated a workers' compensation medical provider(s) as primary providers for treatment of all work-related injuries and illnesses. If a judicial officer does not receive medical care for a work-related injury or illness from approved designated medical providers, the judicial officer may be financially responsible for the care.

Judicial officers must immediately report all work-related injuries or illnesses to the Administrative Authority designated workers' compensation representative, but no later than four (4) working days after the injury or illness is incurred even if the judicial officer does not intend to seek treatment. Judicial officers who have incurred a work-related injury or illness and wish to seek treatment must go to one of the workers' compensation medical providers designated by the judicial officer's district.

Amendments

This policy may be revised as needed at the discretion of the Judicial Department. Judicial officers will be notified when changes are made to this policy.