

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 Justices and Judges.**

This directive shall apply to all independent contractors, anyone conducting business with the Colorado Judicial Department and to Justices and Judges (hereinafter also referred to as Judicial Officers) 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 Colorado Commission on Judicial Discipline. This directive is adopted to assure compliance with Colorado Judicial Department rules, policies, and procedures.

Done at Denver, Colorado this 6th day of November, 2023 *nunc pro tunc* to October 23rd, 2023.

/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

Amended October, 2023

The Colorado Judicial Department will not tolerate, condone, or allow harassment by any employee of the Judicial Department, contract employees, volunteers, interns, judicial officers, customers, or any other individual conducting business for or with the Judicial Department. All employees, justices and judges are encouraged to report any violations of this policy.

The Judicial Department strives to provide and maintain a professional, supportive work environment for all of its members. Supervisors shall maintain objectivity in their supervision of subordinate employees. This policy prohibits conduct or communication that is harassing, discriminatory, or retaliatory in the workplace or during any work-related activity, as well as harassing, discriminatory, or retaliatory conduct or communication that impacts the workplace in any way, including through social media. A contractor, court customer, anyone conducting business, or judicial officer may violate this policy if they engage in conduct or communication that is harassing, discriminatory, or retaliatory and that conduct or communication impacts the workplace in any way, including through social media.

Definitions

- (1) **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, protective hairstyles as defined at C.R.S. §24-34-301(17), marital status, or disability. Discrimination also includes treating someone unfavorably because the person is married to or otherwise associated with a person of or with a certain race, color, national origin, gender, age, sexual orientation, gender identity, religion, protective hairstyles, marital status, or disability.
- (2) **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, protective hairstyles, marital 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, protective hairstyles, marital status, disability, or racial or ethnic slurs, and negative epithets.

Such conduct is a violation of this policy if an individual engages in any unwelcome physical or verbal conduct or any written, pictorial, or visual communication directed at an individual or group of individuals because of their membership in a protected class. Such conduct is a violation of this policy when it is subjectively offensive to the person alleging harassment as well as being objectively offensive to a reasonable person who is a member of the same

protected class as the person alleging harassment.

- (3) **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 the conduct or communication is explicitly or implicitly made a term or condition of the individual's employment 2) 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 3) this conduct has the purpose or effect of unreasonably interfering 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.

Relationships Between Judicial Officer and Judicial Employees

Personal relationships of a romantic and/or sexual nature between judicial officers and their 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, coercion, or retaliation.

It is therefore the policy of the Judicial Department that 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, within 30 days of the notification or otherwise becoming aware of a relationship, 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, one of the parties shall be requested to resign from their employment with reinstatement rights as provided by the Colorado Judicial System Personnel Rules.

Complaint Procedure

Any violation or appearance of violation of any part of this CJD 08-06 by a justice or judge against an employee, shall be promptly reported to any of the following individuals for filing a report: any supervisor; the Court Executive; the Chief Probation Officer; Chief Judge of the District, and/or the Human Resources Director, or any Human Resources Analyst of the State Court Administrator's Office.

Any violation or appearance of violation of any part of C.J.S.P.R., Rule 20 by a magistrate or other employee, shall be promptly reported to any of the following individuals for filing a report: any supervisor; the Court Executive; the Chief Probation Officer; Chief Judge of the District, and/or the Human Resources Director, or any Human Resources Analyst of the State Court Administrator's Office.

Justices or judges with supervisory responsibilities who become aware of violations or appearance of violations of C.J.S.P.R., Rule 20 by a magistrate or other employee shall report the matter within 3 business

days of learning of the violation to the Court Executive, the Chief Probation Officer, the Chief Judge of the District, and/or the Human Resources Director, or any Human Resources Analyst of the State Court Administrator's Office.

If a report is made against a Judge or Justice, the Human Resources Division of the State Court Administrator's Office shall follow the Colorado Revised Statutes and Chief Justice Directive 22-01 and notify the Colorado Commission on Judicial Discipline (CCJD) regarding the report and the allegations made. The Human Resources Division of the State Court Administrator shall provide the Commission with all information concerning the report including information regarding the reporting party or parties and witnesses.

A justice or judge who believes they have been subjected to harassment or discrimination by another justice or judge shall follow the Colorado Revised Statutes and Chief Justice Directive 22-01 and notify the CCJD regarding the report and the allegations made.

- (1) **Form of the Report.** The initial report may be either a written or verbal. Written reports should include the date, time, location, and a description of the event or behavior complained of, as well as the names of the parties involved and any witnesses. A written report should be signed by the complaining party ("complainant"). The recipient of the report, written or verbal, must provide copies of, or a summary of, the report (marked personal and confidential) to: 1) the Chief Judge, Court Executive, or Chief Probation Officer, and/or 2) to the Human Resources Division of the State Court Administrator's Office. If the report 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 shall be kept in confidence as much as possible, but there is no guarantee of confidentiality for any report. The investigator will share information regarding the report. The investigator will share information regarding the report only as necessary to investigate the report, and the information related to a report pursuant to this policy may be shared as needed to respond to any legal and/or administrative proceedings arising out of or relating to the report. All reports made pursuant to this rule and 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 of the Judicial Branch.
- (3) **Investigation.** Reports of a violation of this policy, including retaliation for making a complaint pursuant to this policy shall be referred to the Human Resources Division of the State Court Administrator's Office for investigation. Any party involved in a complaint may submit any documentation they believe to be relevant to the matter at issue to the investigating authority.

Retaliation

The Judicial Department will not tolerate retaliation. Retaliation can refer to a variety of behaviors designed to punish another in the workplace who has harmed them or who they believe has harmed them. Such behaviors can include but are not limited to firing an employee or participating in the firing of an employee in retaliation for filing a complaint, demoting an employee, or participating in the demotion of an employee in retaliation for reporting harassment or reducing an employee's hours or participating in the reduction of an employee's hours in retaliation for speaking out about working conditions. Reasonable supervision by a supervisor is not retaliation.

Retaliation is prohibited against any individual who has filed a report or complaint, witnessed a violation of

any policy listed herein, and/or assisted or participated in any manner in an investigation, or proceeding pursuant to this policy.

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. The accused will 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.

Training Requirement.

All justices and judges must complete on-demand anti-harassment and anti-discrimination training within 6 months of investiture or by December 31, 2023 (six months from the July 1, 2023, effective date of the training requirement), whichever is later.

COLORADO JUDICIAL DEPARTMENT DRUG FREE WORKPLACE POLICY

SUPREME COURT OF THE STATE OF COLORADO

Amended October, 2023

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 during work hours all contractors and judicial officers are prohibited from using or being under the influence of, alcohol, illegal drugs, including 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. 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, marijuana, or alcohol where such use adversely affects job performance.

Any justice or judge taking over-the-counter or prescribed medications is responsible for following any applicable labels or consulting with the prescribing treatment provider to determine whether the medication might interfere with their performance on the job. If the use of a medication could compromise the justice's or judge's performance or safety at work or compromise the safety of co-workers or the public, it is the judicial officer's responsibility to take leave consistent with local policy practices rather than report to, or remain, at work in an impaired status.

This policy permits the responsible use of alcohol in moderation by persons of legal drinking age while attending work functions at which alcohol is served after normal work hours and which Judicial Department employees and/or justices or judges are expected or encouraged to attend. Justices or judges who attend an after-hours work function where alcohol is served are expected to maintain professional conduct and behavior throughout the function. Any behavior that does not meet the requirements of professional conduct consistent with this policy will be subject to reporting to the CCJD.

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

Amended May, 2023

Policy

The Judicial Department strives to maintain a work environment that is free from intimidation, threat, or acts of violence, including domestic violence. Weapons are prohibited from being brought into any judicial department work site, state or county 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 with the approval of the Chief Justice;
- 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 Administrative Authority has adopted a policy permitting the possession 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.

The Administrator of Judicial Security is permitted to carry a firearm at all judicial department work sites, during work-related activities or other state business and in any state owned/leased vehicle.

**COLORADO JUDICIAL DEPARTMENT
WORKERS' COMPENSATION DESIGNATED
MEDICAL PROVIDER**

SUPREME COURT OF THE STATE OF COLORADO

Amended October, 2023

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) 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 ten (10) 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.