### IN THE SUPREME COURT OF THE

#### COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE THE ADOPTION OF JUDICIAL BRANCH SEXUAL HARASSMENT POLICY

GENERAL ORDER NO. 2001- <sup>2つ</sup>りつ

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DATE/TIME

**ORDER** 

IT IS ORDERED that the *Judicial Branch Sexual Harassment Policy* is adopted effective March 29, 2001. A copy of the policy signed and dated March 28, 2001 is attached.

Dated March <u>29</u>, 2001.

MIGUEL S. I EMAPAN, Chief Justice

ALEXANDRO C. CASTRO, Associate Justice

HN A. MANGLONA, Associate Justice

# JUDICIAL BRANCH SEXUAL HARASSMENT POLICY

(General Order 2001-200, Effective March 29, 2001)

The Judicial Branch of the Commonwealth of the Northern Mariana Islands will not tolerate sexual harassment. Sexual harassment in any form is an abuse of individual dignity that damages employee morale, threatens work relationships, and subverts the public interest. It is the policy of the Commonwealth judicial branch to provide a work environment free of sexual harassment.

#### Section 1. General.

- 1.1. <u>Definition</u>. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature shall constitute sexual harassment when:
  - (a) Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting such individual;
  - (b) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance; and/or
  - (c) Such conduct has the purpose or effect of creating an intimidating, hostile or offensive working environment.
- 1.2 <u>Form of Sexual Harassment</u>. Sexual harassment may include, but not be limited to, the following:
  - (a) Verbal: Sexual innuendo, sexual slurs, suggestive comments, threats or insults of a sexual nature, jokes about gender specific traits, sexual propositions;
  - (b) Nonverbal: Making sexually suggestive or insulting noises, making sexually obscene gestures, whistling, leering, trapping or restraining a person, indecent exposure, arranging to be alone with a person for the purpose of making sexual advances;
  - (c) Physical: Touching, pinching, brushing the body, kissing, assault, coercing sexual intercourse;

- (a) Work Environment: Display, including distribution or communication through electronic systems, of sexually suggestive photographs, literature, cartoons, calendars and/or graffiti; and/or
- (b) Retaliation for threatening to report sexual harassment.
- 1.3 <u>Patterns of Sexual Harassment</u>. Sexual harassment may occur in a variety of circumstances and encompass many variables including, but not limited to, the following:
  - (a) A man, as well as a woman, may be the victim of sexual harassment, and a woman, as well as a man, may be the harasser;
  - (b) The harasser may be the victim's supervisor, a supervisory employee who does not supervise the victim and/or a non-supervisory employee (co-worker);
  - (c) The victim may be the same sex, or the opposite sex, of the harasser;
  - (d) The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may be an individual who is affected by such conduct when said conduct is directed towards another individual; and/or
  - (e) A finding of unlawful sexual harassment may be found even when the victim(s) did not suffer a specific economic injury as a result of the harasser's conduct.
- 1.4 <u>Definition of Employee</u>. For the purpose of the Judicial Branch Sexual Harassment Policy, an "employee" shall be defined as any personnel within the Supreme Court and Superior Court including elected and appointed officials.

#### Section 2. Implementation of Policy

- 2.1 The Chief Justice shall and hereby designates the Judiciary Sexual Harassment Prevention Commission ("the Commission") as the body to implement this sexual harassment policy.
- 2.2 The Commission shall be comprised of five (5) members, as follows:
  - i. The Director of Court of the Supreme Court, who shall serve as the chairperson;
  - ii. One supervisory employee of the Supreme Court, appointed by the Chief Justice;
  - iii. One supervisory employee of the Superior Court, appointed by the Presiding Judge;
  - iv. One non-supervisory employee of the Superior Court, appointed by the Presiding Judge; and,

- v. One non-supervisory employee selected by the four appointed employees described in Section 2.2, i.- iv.
- 2.3 If the Presiding Judge fails to appoint commission members pursuant to Section 2, iii iv., within 15 working days of a commission vacancy, the Chief Justice shall make said commission appointment(s). The initial members of the Commission shall be appointed on or before April 13, 2001.
- 2.4 The commission shall be balanced, as far as practical, in terms of gender. The commission members, except for the chairperson, shall serve a two (2) year term.
- 2.5 This sexual harassment policy shall be distributed to all employees of the Commonwealth Supreme Court and Superior Court. All employees shall receive periodic training on sexual harassment issues.
- 2.6 Questions regarding this policy and its implementation and any requests for copies may be addressed to the chairperson of the Commission.
- 2.7 Any supervisor, judicial officer, or employee who: (1) engages in any form of harassment prohibited by this policy and/or, (2) retaliates against an individual who has complained of harassment and/or, (3) an individual who aids another individual who has been the subject of a sexual harassment complaint, shall be subject to applicable disciplinary action. Any supervisor or judicial officer who fails to act upon employee complaints or on personal knowledge of harassment will also be subject to applicable disciplinary action.

## Section 3. Complaint Process. All sexual harassment complaints shall be processed as follows:

- 3.1 An accurate record of unwelcome behavior or misconduct is needed to resolve a formal complaint of sexual harassment. Therefore, any employee of the Commonwealth judiciary who has a work related sexual harassment complaint shall notify the chairperson of the commission in writing of the unwelcome behavior or misconduct within 30 working days following the incident. In the chairperson's absence, the vice-chairperson shall be notified of the incident in the same manner as the chairperson described herein. In the event that the individual directed by Section 3.1 to be notified is the alleged harasser, the employee shall notify any member of the commission in the manner described herein. Commission member names shall be available to any employee by contacting the Director of Court of the Supreme Court.
- 3.2 The complaint shall be signed and dated by the employee alleging the unwelcome behavior or misconduct. Information regarding the existence of and details of the complaint shall be confidential.

- 3.3 Upon receipt of the complaint, the chairperson shall refer the matter to the employee's immediate supervisor to discuss the possibilities of immediate resolution. If no resolution is possible and/or if a solution acceptable to the employee alleging the unwelcome behavior and/or misconduct cannot be reached within ten (10) working days of the receipt of the complaint by the chairperson, then the chairperson shall refer the matter to the Commission for further investigation and resolution.
- 3.4 The Commission shall promptly cause complaint to be investigated. All investigation related to the complaint shall be documented for the purpose of drafting a written report. The investigation shall include interviews with all relevant persons including, but not limited to, the charging employee, the accused, and witnesses. The investigating party must retain documentation of all complaint(s).
- 3.5 Within fifteen (15) working days from the date of receipt of the complaint, the investigator(s) shall draft a written complaint report. The report shall be based on the totality of the circumstances including the nature of the alleged sexual advances and the context in which the alleged incidents occurred. The report shall be presented to the chairperson of the commission.
- 3.6 Within fifteen (15) working days from the date of receipt of the report, the chairperson shall issue a written decision of the commission outlining the action to be taken. This decision shall be directed to the alleged harasser with copies to be distributed to the charging party, and may contain the following:
  - (a) If the complaint is verified, the accused shall be subject to immediate and appropriate corrective action pursuant to applicable Commonwealth laws, personnel policies, rules and regulations up to and including discharge, where appropriate. Corrective action may include, but shall not be limited to, (1) a letter of clarification of expectations, (2) written reprimand, (3) suspension, (4) reduction of pay in grade, (5) delay or loss of step increase, (6) demotion, and/or (7) termination. Determining whether corrective action is warranted, and the level of corrective action, shall be based on the facts of the case and the severity of the harassment.
  - (a) If the complaint cannot be verified, immediate and appropriate action shall be taken to assure that the charging employee, accused, and any witnesses are reacquainted with the Judiciary's Sexual Harassment Policy. Specifically, that it is the policy of the judiciary to provide a work environment free of sexual harassment and that the judiciary has a zero-tolerance policy towards sexual harassment in the workplace.
  - (b) If the claim is patently false or baseless, the charging employee shall be subject to immediate and appropriate corrective action pursuant to applicable Commonwealth laws, personnel policies, regulations and rules.

3.7 In the event that the individual to whom the complaint is presented by the employee alleging sexual harassment does not follow the complaint investigation procedure described herein in a timely fashion, the employee alleging sexual harassment shall notify the Commission.

#### Section 4. Retaliation.

There shall be no retaliation or discrimination against an employee who files a complaint of harassment or who aids another employee who has complained of harassment. Retaliation is a serious violation of this sexual harassment policy and shall be reported immediately. Any person found to have retaliated against another employee for reporting sexual harassment shall be subject to the same disciplinary action provided for sexual harassment offenders, as described in Section 3 herein.

# Section 5. Posting.

This policy shall be posted in the following offices: Clerk of Court Offices, Director of Court's Office, and staff lounges.

#### Section 6. Effective Date.

This policy shall take effect on March 29, 2001.

Dated March 27, 2001.

MIGUEL S. DEMAPAN

Chief Justice

XANDRO C. CASTRO

Associate Justice

OHN MANGLON

Associate Justice