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To: Justices, Judges and Judiciary Employees

From: Glenn A. Grant, J.A.D. 

Subj: Revised Judiciary Policy Statement on Equal Employment Opportunity,
Affirmative Action and Anti-Discrimination

Date: June 30, 2014

Attached is the Revised New Jersey Judiciary Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination, as approved by the Supreme Court to be effective immediately. The Policy Statement is an update of the version issued in July 2011 and is applicable to all judges and Judiciary staff, including the Municipal Courts.

The revisions reflected in this new version include: (a) the addition of “pregnancy” as a protected category in accordance with the expansion of New Jersey’s Law Against Discrimination; (b) addition of a reference to the Judiciary Master Plan for additional information detailing the definition of sexual harassment; and (c) addition of a statement regarding the Judiciary’s moral and legal responsibility to ensure adherence to the provisions of the Policy Statement.

The Revised Policy Statement continues to stress the Judiciary’s unwavering commitment to the principles and goals of fairness, equality, and respect for all individuals at every level of the court system and to our court users and those who come into contact with the court system. I urge you to read the Policy Statement carefully. Compliance with the provisions of the Policy is not only our legal responsibility, it is also the right thing to do. Thank you for your cooperation and support.

G.A.G.

Attachment

cc: Chief Justice Stuart Rabner
Steven D. Bonville, Chief of Staff
Janet Share Zatz, Assistant Director, HR
Tonya N. Hopson, Chief Judiciary EEO/AA Officer
Meryl G. Nadler, Counsel to the Administrative Director

Judiciary of the State of New Jersey
Policy Statement on Equal Employment Opportunity, Affirmative Action
and Anti-Discrimination

The Chief Justice and Supreme Court of New Jersey declare the following to be the policy of the New Jersey Judiciary in order to ensure equal opportunity for all Judiciary employees including judges and applicants for employment, and in order to ensure that all court users, volunteers, attorneys, litigants, witnesses or others who come into contact with the court system are treated in a non-discriminatory manner with civility, dignity, and respect. All who serve in the Judicial Branch are responsible for implementing this policy. Judges, managers, and supervisors are to take all necessary steps to ensure that each employee's work environment is free of all forms of unlawful bias, harassment, and discrimination.

Policy on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination

The New Jersey Judiciary is committed to the principles of equal employment opportunity and prohibits discrimination by those who work for the Judiciary or those who come into contact with the courts. The New Jersey Judiciary promulgates this policy for implementation throughout the court system and prohibits discrimination in all aspects of court operations and in hiring, promotion and terms and conditions of employment on the basis of race, creed, color, national origin/nationality, ancestry, religion/religious practices or observances, age, sex, pregnancy, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, disability or perceived disability, atypical hereditary cellular or blood trait, genetic information, and status as a veteran or disabled veteran of, or liability for service in, the Armed Forces of the United States.

Accordingly, discrimination will not be tolerated whether it is practiced by judges, employees or non-employees, against court employees, attorneys, litigants, witnesses or others who come into contact with the court system. Managerial and supervisory personnel are required to ensure adherence to and compliance with this policy and, upon being informed of possible discrimination or harassment covered by this policy, are required to take appropriate and immediate action in response thereto.

Overcoming Barriers to Equal Opportunity

The Judiciary will continue to take appropriate action to remove barriers that may prevent minorities and women from full participation in the Judiciary's workforce and full enjoyment of all of the privileges of employment. An important factor in evaluating management performance is compliance with the Judiciary's policy of fair employment practices as embodied in the Judiciary's Master Plan for EEO/AA and Anti-Discrimination ("Master Plan"). Management will periodically review Judiciary employment practices in order to ensure that all applicants and employees and, in particular, persons who are members of groups that have been historically disadvantaged because of discrimination are receiving fair and equal consideration for job opportunities. Affirmative efforts to ensure fairness will be undertaken with respect to all employment practices, including but not limited to: recruitment, selection, hiring, training, promotion, transfer, discipline, discharge, demotion, layoff, re-employment after layoff, job assignment, compensation, and fringe benefits.

Policy Against Racial/Ethnic, Religious and Other Forms of Bias, Harassment, and Hostile Work Environment

The Judiciary prohibits all forms of unlawful bias, harassment, and discrimination in all of its operations, including humiliating or degrading jokes, insults or comments about one's race, creed, color, national origin/nationality, ancestry, religion, age, disability or perceived disability, sex, gender identity or expression, affectional or sexual orientation, or any other legally protected attribute. Harassment, coercion or intimidation of any individual based on these or other legally protected attributes is strictly forbidden. This prohibition extends to workforce management, all aspects of employment practices, the processing and adjudication of cases, and all programs, services and activities of the Judiciary.

Policy Prohibiting Discrimination against Individuals with Disabilities

The Judiciary is committed to complying with the Americans with Disabilities Act (ADA), the New Jersey Law Against Discrimination (NJLAD), and other applicable anti-discrimination statutes. The Judiciary will not discriminate against a court user, which includes litigants, witnesses, victims, spectators, jurors, attorneys, agency representatives, volunteers, probationers and participants in court programs, services and activities, on the basis of a disability regarding that individual's access to court proceedings, programs, services, and activities. In addition, the Judiciary will not discriminate on the basis of disability against any job applicant or employee regarding the terms, privileges, or conditions of employment. All Judiciary employees must remain qualified and able to perform the essential functions of the job, with reasonable accommodations where necessary. If a court user, qualified employee or job applicant believes that he/she has been treated unfairly because of a disability, he/she may file a discrimination complaint as described in the section entitled "Filing a Complaint."

Policy on Reasonable Accommodations for Individuals with Disabilities

The Judiciary will provide a reasonable accommodation for court users, qualified employees and job applicants with a disability, provided that the accommodation does not fundamentally alter the nature of a Judiciary program, service, or activity or impose an undue hardship upon the Judiciary.

The Judiciary will provide a reasonable accommodation for court users with a disability, enabling the individual to access and participate in court proceedings, programs, services and activities. A *court user* with a disability may request a reasonable accommodation by contacting the Local Title II ADA Coordinator. A list of Local Title II ADA Coordinators can be found in the Judiciary's brochure, "The New Jersey Judiciary's Title II ADA Procedures for Access to the Courts By Individuals with Disabilities," or on the Judiciary's website at njcourts.com.

The Judiciary will provide a reasonable accommodation for qualified employees and job applicants, provided that the individual is able to perform the essential functions of the job. A *qualified employee or job applicant* with a disability may request a reasonable accommodation by contacting the Local Title I ADA Coordinator listed in the Judiciary's brochure, "The New Jersey Judiciary's Title I ADA Procedures for Employees and Job Applicants with Disabilities," or on the Judiciary's website at njcourts.com.

Policy Against Sexual Harassment

The Judiciary prohibits sexual harassment. It is a form of discrimination that undermines the public's confidence in the Judiciary and the integrity of employment relationships, debilitates morale and may be destructive to its victims and their associates. *For detailed information defining sexual harassment, see the Master Plan.*

Policy Against Discrimination Based on Gender Identity or Expression

The Judiciary respects the individual humanity and worth of each person who comes in contact with the courts. Discrimination in any form based on a person's gender identity or expression is prohibited. Gender identity or expression is defined as having or being perceived as having a gender related identity or expression whether or not stereotypically associated with a person's assigned sex at birth. The Judiciary shall not treat job applicants, employees, or individuals who come into contact with the courts differently because of their actual or perceived gender identity or expression.

Policy Against Discrimination Based on Affectional or Sexual Orientation

The Judiciary is committed to treating all employees and court users equally, with dignity and respect. Discrimination in any form against any individual on account of his or her affectional or sexual orientation is prohibited. Affectional or sexual orientation is defined as male or female heterosexuality, homosexuality, or bisexuality by inclination, practice, identity or expression, having a history thereof, or being perceived, presumed or identified by others as having such an orientation. The Judiciary shall not treat job applicants, employees, or individuals who come into contact with the courts differently because of their actual or perceived affectional or sexual orientation.

Policy on Consensual Dating in the Workplace

Consensual dating relationships between Judiciary employees are generally not the Judiciary's business. However, when the two people currently or previously involved in such relationships work as supervisor and subordinate, the supervisor must promptly inform his or her immediate superior of the personal relationship so that the Judiciary may take action to change the reporting relationship between the individuals. This is necessary in order to eliminate any appearance of, or actual, impropriety in the workplace. All Judiciary employees, including justices and judges, are subject to the New Jersey Tort Claims Act, *N.J.S.A. 59:1-1, et seq.* Accordingly, failure to give proper notice to the supervisor's immediate superior may result in the denial of legal representation and indemnification by the State in the event that a discrimination or sexual harassment lawsuit is filed in connection with the relationship.

Filing a Complaint

Employees, applicants, clients and users of the courts who have questions, problems or complaints regarding EEO, disability, sexual harassment, racial/ethnic bias, hostile work environment or other categories covered by the anti-discrimination laws may communicate their concerns to the judge, manager or supervisor in charge of the court program or service involved. If the complainant is dissatisfied with the handling of the matter, or if the complainant prefers, the complainant may contact the local EEO/AA Officer or may pursue his or her complaint according to the New Jersey Judiciary's discrimination and sexual harassment complaint procedures, which can be obtained from the local EEO/AA Officer and/or Access Coordinator. The Judiciary EEO/AA Unit at the Administrative Office of the Courts in Trenton can be contacted by calling (609) 633-6537. All complaints, inquiries, and investigations shall be handled in a confidential manner to the greatest extent possible. All Judiciary employees are to cooperate in the internal investigation of complaints. The local EEO/AA Officer can also provide information on other options available for filing complaints under state and federal complaint procedures.

Prohibition Against Retaliation

Retaliation in any form by anyone who serves in the Judicial Branch against any person who complains about discrimination, files a discrimination complaint or who assists in the investigation of such complaints is prohibited. A charge of retaliation may be raised at any step of the complaint procedures or may form the basis of a new complaint. Retaliation may result in legal liability even though the original discrimination complaint was unfounded and dismissed. Appropriate actions, up to and including discharge, will be taken against individuals who are found to have retaliated against a complainant or against any individual who assists in the investigation of a complaint.

Dissemination and Compliance with Policy

This Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination will be (1) sent to all New Jersey Judiciary judges and employees, (2) distributed to new employees of the Judiciary, and (3) posted in areas visible to court users, volunteers, and job applicants. Discrimination and harassment based on any of the protected categories in this Policy Statement are illegal and, if engaged in by a Judiciary employee, will be deemed to constitute misconduct. Appropriate actions, up to and including discharge, will be taken against individuals who do not adhere to this policy. The New Jersey Judiciary has a moral responsibility and a legal responsibility for ensuring adherence to the provisions of this Policy Statement.

