

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1350

Amending Personnel Rules  
C10.04 and PX9.04 concerning  
discriminatory harassment.

IT IS ORDERED:

1. Personnel Rule C10.04 is amended to read as follows:

C10.04 Policy on Discriminatory Harassment

C10.04.01 Prohibition on Harassment

The Alaska Court System will not condone, permit or tolerate any kind of harassment of employees or applicants for employment on the basis of sex, color, race, religion, national origin, age, disability, marital status, changes in marital status, pregnancy, parenthood or sexual orientation. This policy applies to all Alaska Court System employees, including judicial officers.

Persons who knowingly permit, engage in or instigate harassment will be subject to disciplinary actions which may lead to suspension or discharge. Where such prohibited activity is perpetrated by a non-employee, that person may be subject to prosecution, loss of contract, or other appropriate sanctions.

C10.04.02 Definition of Prohibited Conduct

Discriminatory harassment is unwanted conduct or communication by a supervisor, co-worker, or non-employee which is based on the sex, color, race, religion, national origin, age, disability, marital status, changes in marital status, pregnancy, parenthood or sexual orientation of an individual and which adversely affects the employment relationship or working environment. This includes, but is not limited to, slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing and other verbal or physical conduct.

Sexual harassment is a form of discriminatory harassment. Sexual harassment has been defined by the U.S. Equal Employment Opportunity Commission as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or

implicitly a term or condition of an individual's 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 individual's work performance or creating an intimidating, hostile, or offensive working environment.

Criticism of an employee's work habits or work performance is considered part of the evaluation process and is not considered harassment.

#### C10.04.03 Reporting Harassing Conduct

Employees or applicants for employment who believe that they have been subjected to harassment, or that they have witnessed harassment, should immediately ~~contact the personnel director~~ report such incidents to any Court System supervisor. Such supervisors may include the employee's immediate supervisor, the Clerk of Court, the Area Court Administrator, the Presiding Judge, the Clerk of the Appellate Courts, the Human Resources Director, the Administrative Director, or any Justice. The Court System will investigate each such report. All employees are eligible to report harassing conduct or file a formal complaint under this rule. The informal grievance procedures under Personnel Rule C9.03 are not applicable.

~~Criticism of an employee's work habits or work performance is considered part of the evaluation process and is not considered harassment.~~

A supervisor to whom harassing conduct is reported shall immediately advise the Human Resources Director, the Administrative Director, or any Justice.

Acts of reprisal against a person reporting harassing conduct or filing a complaint under this rule are prohibited under Personnel Rule C9.07.

#### C10.04.04 Reporting Harassment by Judicial Officer

In addition to reporting harassing conduct to the supervisors listed above, employees or applicants for employment who believe they have been subjected to harassment, or that they have witnessed harassment, by a judicial officer may also report such incidents to the Alaska Commission on Judicial Conduct.

2. Personnel Rule PX9.04 is amended to read as follows:

PX9.04 Policy on Discriminatory Harassment

PX9.04.01 Prohibition on Harassment

The Alaska Court System will not condone, permit or tolerate any kind of harassment of employees or applicants for employment on the basis of sex, color, race, religion, national origin, age, disability, marital status, changes in marital status, pregnancy, parenthood or sexual orientation. This policy applies to all Alaska Court System employees, including judicial officers.

Persons who knowingly permit, engage in or instigate harassment will be subject to disciplinary actions which may lead to suspension or discharge. Where such prohibited activity is perpetrated by a non-employee, that person may be subject to prosecution, loss of contract, or other appropriate sanctions.

PX9.04.02 Definition of Prohibited Conduct

Discriminatory harassment is unwanted conduct<sup>3</sup> or communication by a supervisor, co-worker, or non-employee which is based on the sex, color, race, religion, national origin, age, disability, marital status, changes in marital status, pregnancy, parenthood or sexual orientation of an individual and which adversely affects the employment relationship or working environment. This includes, but is not limited to, slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing and other verbal or physical conduct.

Sexual harassment is a form of discriminatory harassment. Sexual harassment has been defined by the U.S. Equal Employment Opportunity Commission as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's 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 individual's work performance or creating an intimidating, hostile, or offensive working environment.

Criticism of an employee's work habits or work performance is considered part of the evaluation process and is not considered harassment.

PX9.04.03 Reporting Harassing Conduct

Employees or applicants for employment who believe that they have been subjected to harassment, or that they have witnessed harassment, should immediately contact the personnel director report such incidents to any Court System supervisor. Such supervisors may include the employee's immediate supervisor, the Clerk of Court, the Area Court Administrator, the Presiding Judge, the Clerk of the Appellate Courts, the Human Resources Director, the Administrative Director, or any Justice. The Court System will investigate each such report. All employees are eligible to report harassing conduct or file a complaint under this rule.

~~Criticism of an employee's work habits or work performance is considered part of the evaluation process and is not considered harassment.~~

A supervisor to whom harassing conduct is reported shall immediately advise the Human Resources Director, the Administrative Director, or any Justice.

Acts of reprisal against a person reporting harassing conduct or filing a complaint under this rule are prohibited.

PX9.04.04 Reporting Harassment by Judicial Officer

In addition to reporting harassing conduct to the supervisors listed above, employees or applicants for employment who believe they have been subjected to harassment, or that they have witnessed harassment, by a judicial officer may also report such incidents to the Alaska Commission on Judicial Conduct.

DATED: November 1, 1998

EFFECTIVE DATE: January 1, 1999

/s/  
Chief Justice Matthews

/s/  
Justice Compton

/s/  
Justice Eastaugh

/s/  
Justice Fabe

/s/  
Justice Bryner