

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

RE:

SUPPLEMENT TO THE COURTS' EEO           §       Entered November 2, 1994  
PLAN: COMPLAINTS OF SEXUAL           §  
HARASSMENT                           §       ORDER NO. 94-14

ORDER

The attached "Supplement to the Courts' EEO Plan" providing a specific procedure for the processing of complaints of sexual harassment is adopted in supplementation of the Equal Employment Opportunity Plan for the Southern District of Texas, dated February 23, 1987.

The Clerk shall distribute copies of the supplement to all judges and employees and, upon request, to members of the public.

SIGNED at Houston, Texas, this 2nd day of November, 1994.

For the Court

\Signed\  
NORMAN W. BLACK  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

UNITED STATES COURT OF APPEALS  
FIFTH JUDICIAL CIRCUIT  
300 Fannin Street, Suite 5226  
Shreveport Louisiana 71101-3074

*Chambers of*  
HENRY A. POLITZ  
*Chief Judge*

(318) 676-3472

October 28, 1994

TO: All Chief District and Bankruptcy Judges

RE: Supplement to the Courts, EEO Plan  
Complaints of Sexual Harassment

Your Honors:

By delegation of the Judicial Conference of the United States, the Judicial Council is charged with reviewing and modifying, as necessary, the Equal Employment opportunity Plans of the courts within the circuit. All courts of the Fifth Circuit operate under either the Model EEO Plan promulgated by the Conference or a modified plan approved by the Judicial Council of the Fifth Circuit.

Last year I appointed an ad hoc committee of the Judicial Council to examine the issue of sexual harassment and to determine whether the courts had a procedure to deal with such complaints. The committee found that the courts' EEO plans contain no specific reference to sexual harassment complaints. Furthermore, the existing EEO complaint procedures are not designed to handle sexual harassment complaints against judges.

At its October 24, 1994 meeting, the Judicial Council reviewed the matter and adopted the enclosed "Supplement to the Courts, EEO Plan." Please incorporate this supplement into your local EEO Plan.

If you have any questions, please call me or the Circuit Executive's Office.

Sincerely,  
\Signed\  
Henry A. Politz

Enclosures:  
Council Order  
EEO Plan Supplement

cc and enclosures to:  
All Clerks of Court

cc: Circuit Judges

**THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT**

In Re: Supplement to the Courts' EEO Plan Complaints of Sexual Harassment

Before: POLITZ, Chief Judge, and Council Members, KING, GARWOOD, JOLLY,  
DAVIS, JONES, SMITH, WIENER, BARKSDALE, GARZA, SEAR, PARKER,  
LITTLE, SENTER, BARBOUR, SANDERS, KAZEN, COBB, and PRADO.

O R D E R

Each court of the Fifth Circuit (circuit, district and bankruptcy) has adopted an Equal Employment Opportunity Plan and Discrimination Complaint Procedure in accordance with the Model Plan promulgated by the Judicial Conference of the United States.

The Judicial Council of the Fifth Circuit has adopted the attached "Supplement to the Courts' EEO Plan" to provide a specific procedure for the processing of complaints of sexual harassment.

**IT IS ORDERED** that each court of the Fifth Circuit adopt this supplement to its EEO Plan. Copies of the supplement are to be given to all judges and employees and, upon request, to members of the public.

**FOR THE COUNCIL:**

\Signed\  
HENRY A. POLITZ  
Chief Judge

DATED: October 27, 1994

**SUPPLEMENT TO THE COURTS' EEO PLAN  
COMPLAINTS OF SEXUAL HARASSMENT**

**I. Policy**

The court hereby reaffirms its policy against sexual harassment of any employee of the court. Sexual harassment is defined as unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature 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.

**II. Complaint Procedures**

Any aggrieved employee, or his or her representative, may file a complaint of sexual harassment. The complaint must be in writing, must allege all relevant facts constituting the basis for such complaint, and must specify the relief requested. The complaint must be filed within six months of a particular act or occurrence unless good cause is presented and accepted by the officer receiving the complaint.

**A. Complaints Against Court Employees**

A complaint against any court employee, other than a judge, shall be filed and processed in accordance with the standard Discrimination Complaint Procedure, Appendix 1 to the EEO Plan.

**B. Complaints Against Judges**

A complaint against a judge may be filed in accordance with the internal court procedure shown below, or filed as a judicial misconduct complaint pursuant to 28 U.S. C. 372 (c) , or both, at the discretion of the complainant.

**1. Court Internal Procedure**

If the subject of the complaint is a district, bankruptcy, or magistrate judge, the complaint may be filed with the chief district judge. If the subject of the complaint is a circuit judge, the complaint may be filed with the chief circuit judge. Upon receipt of the complaint, the chief judge:

- a. will make any investigation into the matter which he or she deems necessary;
- b. will consult with the involved parties and seek an informal resolution of the problem; and
- c. will prepare a report to the parties identifying the issues, describing his or her findings and recommendation, explaining what resolutions, if any, will be undertaken.

**2. Judicial Misconduct Complaint under S 372(c)**

Any person complaining of sexual harassment by a judge may file a complaint of judicial misconduct pursuant to 28 U.S.C. 5 372(c). Complaints under this procedure shall be filed in accordance with the **Rules Governing complaints of Judicial Misconduct or Disability**, promulgated by the Judicial Council of the Fifth Circuit (April 15, 1993). Copies of these rules may be obtained from the Clerk, U. S. Court of Appeals f or the Fifth Circuit.

It should be noted that two procedures are available for filing a complaint of sexual harassment against a judge. Complainants may pursue the designated internal court procedure, and/or file a complaint under S 372(c).