



UTAH STATE COURTS



## Human Resource Policies

### Section 9 - Employee Code of Ethics and Conduct

#### **HR09-1. Ethics and Standards of Conduct.**

An employee shall comply with the standards of conduct and ethics as established in this section of policy (HR09), other standards established throughout the Utah Judicial Branch HR Policies (including but not limited to HR15 governing Workplace Harassment Prevention and HR16 governing Abusive Conduct Prevention) and the policies and procedures established by local management. An employee who violates these standards shall be subject to disciplinary action up to and including dismissal from employment in accordance with HR11.

#### **HR09-2. General Standards**

- 1) Employees shall apply themselves to and shall fulfill their assigned duties during the full time for which they are compensated.
  - a) An employee shall:
    - i) Comply with the standards and expectations established in writing by management;
    - ii) Maintain an acceptable level of performance and conduct on all other verbal and written job expectations;
    - iii) Report conditions and circumstances, including impairment caused by an employee's use of illicit drugs, controlled substances, alcohol or other intoxicant, that may prevent the employee from performing their job effectively and safely; and





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### Section 16 - Abusive Conduct Prevention

#### **HR16-1. Policy.**

This policy applies to every employee of the judicial branch, regardless of position, including Administrative Office of the Courts management as well as commissioners, judges, and justices. In addition to the protections provided by this policy, commissioners, judges and justices are prohibited under the [Utah Code of Judicial Conduct](#) from manifesting bias or prejudice or engaging in harassment.

It is the policy of the judicial branch to provide a work environment free from abusive conduct in accordance with [UCA §67-26](#).

- 1) Abusive conduct includes physical, verbal or nonverbal conduct, such as derogatory remarks, insults, or epithets made by an employee that a reasonable person would determine:
  - a) Was intended to cause intimidation, humiliation, or unwarranted distress;
  - b) Exploits a known physical or psychological disability; or
  - c) Results in substantial physical or substantial psychological harm (as defined by [UCA §67-26-102](#)) caused by intimidation, humiliation or unwarranted distress.
- 2) The following actions do not constitute abusive conduct unless they are especially severe and egregious:
  - a) A single act;

- b) Appropriate disciplinary or administrative actions;
  - c) Appropriate coaching or work-related feedback;
  - d) Reasonable work assignments or job reassignments; or
  - e) Reasonable differences in styles of management, communication, expression, or opinion.
- 3) An employee may be subject to discipline under this policy even if the conduct occurs outside of scheduled work time or work location.
- 4) Once a complaint of abusive conduct has been filed, the accused may not communicate with the complainant regarding allegations in the complaint.

#### **HR16-2. Complaint Procedure.**

Management shall permit an employee who alleges abusive conduct to file a complaint and engage in a review process free from bias, collusion, intimidation or retaliation.

- 1) An employee who believes they are being subjected to abusive conduct should do the following:
- a) Document the occurrence;
  - b) Continue to report to work; and
  - c) Identify a witness or witnesses, if applicable.
- 2) A non-judicial officer employee shall file a written complaint of abusive conduct with the immediate supervisor, any person in a supervisory or management position in the judicial branch regardless of reporting relationship, any commissioner, judge, or justice, or anyone in the [Human Resources Department](#).
- a) Complaints may be submitted by any employee, witness, volunteer or other individual.
  - b) Any supervisor who has knowledge of abusive conduct shall take immediate, appropriate action in consultation with the HR Department and document the action.
- 3) A judicial officer who believes they are being subjected to abusive conduct shall file a complaint directly to any

member of the Judicial Council, who shall immediately report the complaint to the Management Committee.

### **HR16-3. Investigative Procedure.**

#### **Investigators**

- 1) When warranted due to allegations of conduct in violation of [HR16-1](#), investigations shall be conducted based on HR standards and business practices.
  - a) Allegations of abusive conduct by non-judicial officer employees shall be conducted by investigators in the HR Department.
  - b) Allegations of abusive conduct by judicial officers shall be referred immediately to the Judicial Council and handled in accordance with policies of the Judicial Council. An investigation may be conducted by the HR Department if specifically requested by the Judicial Council.

#### **Investigation Results**

- 2) Results of investigations conducted by the HR Department shall be handled as follows:
  - a) A written report shall be produced and given to management or to the Judicial Council as appropriate, with an analysis of evidence gathered and a determination of whether allegations of abusive conduct are sustained or not sustained.
    - i) If the allegations of abusive conduct are sustained for non-judicial officer employees, appropriate administrative action will be taken by management.
    - ii) If the allegations of abusive conduct are sustained for judicial officers, the Judicial Council will proceed in accordance with its policies .
  - b) If an investigation reveals evidence of criminal conduct in abusive conduct allegations, the court executive, court level administrator, or presiding

officer of the Judicial Council may refer the matter to the appropriate law enforcement agency.

- c) At the conclusion of the investigation, the appropriate parties shall be notified of investigative findings and the procedure to request an administrative review of findings through the Grievance Review Panel under [HR17](#).

- 3) Participants in any abusive conduct investigation shall treat all information pertaining to the case as confidential.

### **Interviews**

- 4) Interview procedures shall be handled as follows:
  - a) Interviewees are required to answer truthfully to all questions related to their job performance and functions or possible violations of policies, procedures, and/or regulations.
  - b) Employees are allowed to have a representative present during an interview if desired. The employee is responsible to request representation. The representative may be another employee that has no involvement in the alleged conduct, a private attorney retained by the employee, or a representative from an employee association. (b i thru iii is not same as Section 15 - which has a sec ii inidating "The representative is not allowed to record the interview but may take written notes.")
    - i) If representation is requested, an interview may be paused until representation arrives or postponed up to 48 hours to allow the representative to be present.
    - ii) The representative or employee may record the interview after giving notice to the interviewer that the interview is being recorded.
    - iii) The representative may assist the employee by consulting with the employee prior to the interview and may assist the employee during the interview by asking the interviewer to clarify a question. The representative may not tell an employee what to say in response to a question nor unduly interrupt or otherwise interfere with

the interviewer's ability to conduct the interview.

- iv) If the investigator determines the representative is interfering with the integrity of the interview and/or the investigator's ability to conduct the interview, the representative may be removed from the interview.
- c) When necessary to protect the integrity of the investigation, an investigator may order an employee not to disclose the contents or matters discussed in an investigative interview. Disregarding this order may be grounds for disciplinary action.
- d) When requested by the investigator, employees must provide evidence (testimonial or non-testimonial) related to the incident being investigated. Refusal to do so may be grounds for disciplinary action.
- e) The subject of an interview may make a written request for records of the interview in accordance with [HR16-5](#) and [UCJA 4-202.02](#).

#### **HR16-4. Abusive Conduct Prevention Training.**

- 1) The HR Department shall provide employees and supervisors training on the prevention of abusive conduct.
  - a) Training shall include information regarding what constitutes abusive conduct, how to prevent it, options available under this policy, and grievance procedures provided by [HR17](#).
  - b) Management shall ensure employees complete training within a reasonable time after hire and at least every calendar year thereafter.
  - c) Training records shall be submitted to the Education Department and/or to the HR Department including who provided the training, who attended the training, and when they attended it.

#### **HR16-5. Abusive Conduct Complaint Records.**

- 1) A separate confidential file of all abusive conduct complaints shall be maintained and stored in the Human

Resources Office, or in the possession of an official authorized by the Judicial Council.

- a) Removal or disposal of these files shall only be done with the approval of the HR Director.
  - b) Files shall be retained in accordance with the [retention schedule](#) after the active case ends.
  - c) All information contained in the complaint file shall be classified as protected under [UCJA 4-202.02](#).
  - d) Information contained in the abusive conduct file shall only be released by the court level administrator in consultation with the HR Director when required by law.
  - e) The HR department shall report to DHRM the total number of abusive conduct complaints filed, the total number investigated or reviewed, and the outcomes of these complaints on or before July 31 of each calendar year in accordance with [UCA §67-26-301\(6\)](#).
- 2) Supervisors may not keep separate files of complaints regarding abusive conduct.

#### **HR16-7. Policy Exceptions.**

The HR Director may authorize exceptions to this policy consistent with [HR02-2\(1\)](#).

**Authorizing, and Implemented or Interpreted Law:** [UCJA 3-402](#); [UCJA 4-202.02](#); [UCA §§67-26-201 et seq.](#); [UCA §67-26-301](#).