

**TRIAL COURT POLICY PROHIBITING DISCRIMINATION,  
HARASSMENT, AND RETALIATION**

# **Frequently Asked Questions**

## **ABOUT THE POLICY AND FILING A COMPLAINT**

### **Where can I find the Trial Court Policy prohibiting discrimination, harassment and retaliation?**

The Policy is in Section 5 of the Trial Court’s Personnel Policies and Procedures Manual. It can be found on Mass.gov (for external users) as well as on Courtyard (for internal users).

### **Am I covered by this Policy?**

All Employees (including supervisors, managers, and elected and appointed officials, including judges, clerks, registers, and the recorder), Court Users (litigants, witnesses, attorneys, jurors, and members of the public), and Service Providers (including contractors, interns, and volunteers), are covered by this Policy.

These frequently asked questions are designed to answer some questions common to all of these groups, but provide some responses directed more specifically to Employees.

### **What kinds of discrimination does this Policy prohibit?**

The Policy prohibits discrimination on the basis of protected characteristics, also referred to as “protected class.” Protected characteristics or class are based on federal or state law. They are race, color, sex (including sexual harassment, pregnancy, childbirth and medical conditions related to pregnancy or childbirth, and breastfeeding), age (over 40), disability, including a request for reasonable accommodation, sexual orientation, gender identity (including transgender status), military service or veteran status, religion or religious creed including a request for reasonable accommodation, national origin, genetic information, ancestry, or participation in discrimination complaint-related activities.

The Policy does not apply to decisions or conduct that are not based on protected characteristics. Such decisions or conduct may be covered under other policies, such as the Trial Court’s Personnel Policies and Procedures Manual or the union contracts.

**Some of those characteristics are confusing. How is discrimination based on each characteristic defined?**

Many of the characteristics are based on factors that are not changeable or are deemed intrinsic to one's identity. Many do not have a uniformly agreed-upon legal definition, but here are some general guidelines to help you decide whether you have been discriminated against in violation of the Policy:

**Race:** On the basis of ancestry or physical or cultural characteristics associated with a certain race, such as skin color, hair texture or styles, or certain facial features, and on the basis of stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. All individuals in the following racial classifications, including persons of more than one race, are protected from discrimination:

*Black:* All persons having origins in any of the Black racial groups of Africa including, but not limited to, African-Americans, and all persons having origins in any of the original peoples of the Cape Verdean Islands.

*White:* (not of Hispanic origin): Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

*Hispanic/Latino:* All persons of Mexican, Puerto Rican, Cuban, Central, Latin or South American or other Spanish culture or origin, regardless of race.

*Asian or Pacific Islander:* All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands, including, for example, the areas of China, India, Japan, Korea, the Philippine Islands and Samoa.

*American Indian or Alaskan Native:* All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

**National origin:** Refers to discrimination against someone because they come from a particular place, because of their ethnicity or accent, or because it is believed that they have a particular ethnic background. It also includes discrimination because of marriage or other association with someone of a particular nationality.

**Ancestry:** Refers to discrimination against someone because of racial or ethnic ancestry. There can be considerable overlap between ancestry, race, and national origin or ethnicity discrimination.

**Color:** Generally refers to discrimination based on the pigmentation of one's skin. Even though race and color overlap, they are not the same under the law. Color discrimination occurs when a person is discriminated against based on the lightness, darkness, or other color characteristic of the person.

**Sex:** The terms “sex” and “gender” refer to the anatomy and biology that determines whether one is male, female, and/or intersex (born with a combination of male and female biological characteristics). The terms are often used interchangeably but gender is also sometimes referred to as including the social beliefs about the roles of females or males (for example the idea that women should wear dresses, or that men are less nurturing).

Discrimination on the basis of sex also includes sexual harassment and pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy and childbirth. There is detailed information about sexual harassment later in these FAQ’s.

**Sexual orientation:** Refers to discrimination against a person based on their physical or emotional attraction toward a certain sex or gender. A person may also not be discriminated against on account of the perception of their sexual orientation, even if that perception is mistaken.

**Gender identity (including transgender status):** Refers to an innate sense of one’s own gender, or an internal sense of who one is, regardless of anatomy. Discrimination against a person based on this category is prohibited.

**Age:** Federal and state law and this Policy provide that people over 40 are in a protected class and may not be discriminated against on the basis of their age.

**Military service or veteran status:** Refers to discrimination against anyone based on the fact that they serve or have served in any branch of the United States armed forces.

**Disability, including a request for reasonable accommodation:** A qualified person with a disability is considered to be someone who can perform the essential function of their job and has a physical or mental impairment that substantially limits one or more of that person’s major life activities. A person is also in this protected class if they have a record of such an impairment, or is regarded as having such impairment. This Policy also protects an individual against discrimination or harassment because they have made a request for a reasonable accommodation for their disability in order to be able to perform the major duties of their position.

**Religion or religious creed:** Refers to discrimination against someone because of their sincerely held religious, moral, or ethical beliefs. It includes all aspects of religious observance and practice. This Policy also protects an individual against discrimination or harassment because they have made a request for a reasonable accommodation for their religious observance and practice.

**Genetic information:** Refers to discrimination against someone based upon information about an individual’s genetic tests and the genetic tests of an individual’s family members, as well as family medical history.

**Participation in discrimination complaint-related activities:** Refers to discrimination against someone because they made a discrimination complaint, participated in a discrimination investigation or other proceeding, or otherwise opposed discrimination.

**NOTE:** A person filing a complaint under this Policy is not expected to identify a single protected category as the basis of alleged discrimination. The complaint form allows a person to “check all that apply.” For example, in some cases a person filing a complaint may have a good faith belief that they were discriminated against based on their age, but in other cases, someone may not know specifically if the alleged discrimination is because of their race, color, national origin, ancestry, or some interplay between all of them.

### **What is discrimination?**

Discrimination is generally defined as intentional or unintentional unfair or unequal treatment of an individual or group based on a protected characteristic (membership in a protected class) that adversely affects employment opportunities (such as hiring, promotions, and professional development). A single act of discrimination may be based on more than one protected characteristic (for example, a person may feel they were denied a promotion due to race, age, and gender).

### **What are some examples of discrimination?**

- An employer refuses to hire someone because they are over 40.
- A supervisor terminates an employee because she is pregnant.
- A manager refuses to promote an employee because he is gay.
- A supervisor only issues a written warning to the black employee who returns late from lunch with two white co-workers, who are also late, and the supervisor did this because of race.

### **What is harassment?**

Harassment is verbal, nonverbal, or physical conduct that denigrates or shows hostility because of membership in any protected class which creates an intimidating, hostile, or offensive work environment.

### **What are some examples of harassment?**

- An employee mocks a co-worker’s accent on a regular basis.
- A supervisor posts a sign that reads “This is America, learn English” on the office bulletin board.
- A Service Provider repeatedly tells racist jokes.
- A manager spreads a rumor that a new employee is gay.
- A supervisor daily makes fun of an employee who wears a headscarf.

**What is a hostile working environment?**

A hostile work environment exists when the discriminatory harassment is sufficiently severe or pervasive to interfere with an employee's professional performance, or to deny or limit a one's ability to participate in or benefit from the Trial Court's programs or activities based on sex.

To make the ultimate determination of whether a hostile environment exists, the Trial Court considers a variety of factors related to the severity, persistence, or pervasiveness of the harassment, including: **(1)** the type, frequency, and duration of the conduct; **(2)** the identity and relationships of persons involved; **(3)** the number of individuals involved; **(4)** the location of the conduct and the context in which it occurred; and, **(5)** the degree to which the conduct affected one or more person's employment. The Trial Court will evaluate the conduct from the perspective of a reasonable person in the alleged victim's position, considering all of the circumstances.

**What is sexual harassment?**

Sexual harassment is a form of sex discrimination. It involves unwelcome conduct of a sexual nature, such as sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature, and creates a hostile, intimidating or humiliating work environment.

Sexual harassment can occur between people of any gender. It can occur between equals (e.g. co-workers or peer-level employees) or between persons of differing power status (e.g., supervisor to subordinate).

**What are some examples of sexual harassment?**

- A co-worker sends unwanted semi-nude photos of herself by text even after being told to stop.
- A delivery person makes suggestive comments about an employee's body and follows her out to her car to continually ask for a date.
- A supervisor routinely puts his hands on an employee's lower back when the employee is helping someone at the counter.
- A manager tells dirty jokes on a regular basis.

**What is gender-based harassment?**

Gender-Based Harassment is a form of sexual harassment on the basis of gender, gender identity, gender expression, sexual orientation, or failure to conform to stereotypical notions of masculinity or femininity.

### **What are some examples of gender-based harassment?**

An employee uses derogatory comments and terms toward a male or female court user who does not act in ways that align with their gender stereotype, such as a male being called names for being interested in the arts or a female being called names for being interested in construction.

- An employee tells an applicant to use a restroom that does not align with that person's gender identity.
- A supervisor makes generalized derogatory comments about one gender, such as "all females" are \_\_\_\_\_ or "all males" are \_\_\_\_\_.

### **What is retaliation?**

Retaliation is taking an adverse or negative action because of protected activity such as filing a discrimination or harassment complaint, or being a witness in an investigation, intervening to protect others or requesting accommodation of a disability or for a religious practice.

### **What are some examples of retaliation?**

- A manager gives a negative performance evaluation to an employee because he requested a reasonable accommodation for a disability.
- A supervisor assigns an employee to clean twice as many courtrooms because she was a witness for another employee who was sexually harassed.
- A supervisor tells co-workers to stop covering the phones for an employee who needs a restroom break because the employee filed a complaint of race discrimination.

## **HOW TO RAISE A CONCERN OR MAKE A COMPLAINT**

### **If I believe I have been discriminated against, harassed, or retaliated against in violation of this Policy, how do I make a complaint?**

You can report your concern and/or make an internal complaint either verbally or in writing to a wide range of people or offices. Detailed contact information of the all offices are listed at the end of the Policy, at the end of these FAQs, and on the website; they include your manager, another manager, a dedicated Hotline, the Office of Workplace Rights & Compliance (OWRC), the Human Resources Department, the Legal Department, the Office of Diversity, Equity, Inclusion and Experience, the Executive Office of the Trial Court, and the Departmental Administrative Offices.

You also have the right to file a complaint with the federal Equal Employment Opportunity Commission (EEOC) or the state Massachusetts Commission Against Discrimination (MCAD). Contact information for those agencies is listed at the end of these FAQs and at the Policy as well

If you have a complaint about some action that does not fall within this Policy, it should be directed to the appropriate manager or process. Questions about other types of complaints can be brought to a manager, the Human Resources Department, the Departmental Administrative Office or the appropriate union for unionized employees.

If you are unsure of whether your complaint falls under this Policy or not, you may contact the Office of Workplace Rights & Compliance (OWRC), to learn more about the Policy and receive guidance as to the best office/person to report your complaint.

### **Can I make an anonymous internal complaint about a violation of this Policy?**

Yes, but it is much harder to investigate anonymous complaints, especially if they lack sufficient detail. You are encouraged to identify yourself so that a thorough and fair investigation can be conducted. You may contact the Office of Workplace Rights & Compliance (OWRC), to discuss this option and learn more about the complaint process to help you decide if you want to remain anonymous with your complaint.

### **What if I'm not sure I want to make a complaint?**

You are encouraged to contact the Office of Workplace Rights & Compliance (OWRC), to discuss any concerns or issues you are dealing with and learn more about the options you have as to whether to file a complaint or not.

### **What information do I need to make a complaint?**

Unless it is made anonymously, you will need to provide your name and contact information, the name and any known contact information for the person or persons against whom you are bringing the complaint, the basis for the complaint (that is, what protected category you believe is the reason you have been discriminated against or harassed), or whether you believe you have been retaliated against based on participation in discrimination complaint related activities. You will need to give a brief description of what happened, where and when.

### **Is there a form to make a complaint?**

Yes, a OWRC Complaint form is available on the Courtyard and on the Mass.gov It can be filled out online or can be printed out and filled out by hand. You can also get a printed form by contacting the Office of Workplace Rights & Compliance (OWRC), at **617-878-0411** or by email at [WorkplaceRights@jud.state.ma.us](mailto:WorkplaceRights@jud.state.ma.us) to request that one be mailed or emailed, to you.

### **What happens if I make a verbal complaint?**

The person or office that you tell about your complaint will fill out the standard complaint form with the information you provide. You may be asked to review it for accuracy and completeness and to sign and date it.

**Once I make a verbal or written complaint, what happens next?**

Unless your complaint is against a judge, clerk, register or the recorder, it will be reviewed by the Office of Workplace Rights & Compliance (OWRC), to determine whether or not it may constitute a violation of the Policy. You will normally be notified within two business days after OWRC receives your complaint that it has been received, and will be contacted for any additional information or to discuss whether the complaint should be referred to another department or whether there can be an early, informal resolution of the matter. You will be kept informed about the outcome.

If your complaint is against a judge, clerk, register or the recorder, there are statutes that give the Departmental Chief Justices authority to investigate and take appropriate action. The complaint will be referred to the appropriate Departmental Chief Justice and you will normally be notified of this action within two business days. The screening, review, and investigations process will be conducted under the direction of the Departmental Chief Justice. You will be kept informed about the outcome.

**How long will it take to resolve my complaint?**

It is the goal of the Policy that complaints be addressed within 30 - 45 business days.

**Will all complaints receive a full investigation?**

All complaints will be screened, but some complaints may not constitute a violation of this Policy, and may be referred to another office. It may also be possible to resolve some complaints through informal resolution; if that is the case, a full investigation may not be necessary. You will be informed of any referral or resolution.

**Will the person against whom I make a complaint receive a copy?**

If it is determined that the complaint requires an investigation, the person against whom you have brought a complaint will be given a copy of the complaint form. Contact information for you, like a phone number or email address, will be deleted from the form. If there is other information on the form, like medical information or other material of a highly personal nature that is unnecessary for the person against whom you have brought the complaint to learn, that information will also be deleted from the form.

There is a limited exception to giving a copy of the form that may apply if the Office of Workplace Rights & Compliance (OWRC), or Departmental Chief Justice determines that notifying the person against whom the complaint is brought may result in the destruction of important information about the complaint or a significant danger of retaliation against you or any witnesses to the complaint.



**Will I have a chance to give more details about my complaint and provide the names of witnesses who should be contacted?**

Yes, you will be contacted to give needed details, including the names of any witnesses, and you may be asked to provide documents or other materials that you have that relate to your complaint. You are encouraged to provide any original documentation that is relevant to complaint such as emails, video, or text messages.

**Will my complaint be kept confidential?**

All complaints and investigations are treated confidentially and information about the complaint is revealed strictly on a need-to-know basis. Your privacy will be respected, however, your identity will usually need to be revealed to the person against whom you bring the complaint and/or witnesses at some point in the process, and your manager will need to be informed to facilitate any investigation. Steps will be taken to prevent anyone from retaliating against you for bringing the complaint.

**Can my complaint be resolved informally?**

Yes, at an initial stage staff assigned to your complaint may be able to resolve your complaint quickly, through a phone call or other contact. You will be notified if this occurs.

**Could my complaint be referred elsewhere?**

If it is determined that your complaint does not actually state a violation of the Policy, it may be referred to the appropriate office or department that can assist you in addressing your concerns. You will be notified to discuss any referral.

## **PRELIMINARY INQUIRY**

**What if my complaint is more complicated or can't be quickly or informally resolved?**

The Policy has a procedure called a "preliminary inquiry," which may include further discussion with you, contact with the appropriate manager, and review of relevant documents or other records. The goal is to complete this preliminary inquiry within five business days.

**What could happen as a result of a preliminary inquiry?**

If the preliminary inquiry shows that the facts alleged in your complaint do not constitute a violation of the Policy, you will be notified. Where the preliminary inquiry does not dispose of your complaint, a full investigation will then be conducted.

**Do all complaints have to go through a preliminary inquiry?**

No, there are some complaints that may proceed to a full investigation right away. That may depend on the nature of the complaint or other factors that will be considered by the Office of Workplace Rights & Compliance (OWRC), or, in case of complaints against a judge, clerk, register, or the recorder, by the Departmental Chief Justice.

**Who Is Informed of the Preliminary Inquiry?**

While every attempt will be made to limit information to a strict need-to-know basis, and depending on the particular facts of each complaint, your manager, the Department Head or their designee, the Departmental Chief Justice and the Deputy Court Administrator, or Commissioner may be notified.

Unless your complaint is against your manager, they will be contacted as part of the preliminary inquiry. Higher-level manager such as a Departmental Chief Justice, if appropriate, may be notified of the outcome of the preliminary inquiry.

All such notifications will be marked as confidential.

## INVESTIGATION

**What can I expect if my complaint is investigated?**

You can expect to be informed that an investigation will be conducted, the name and contact information of the investigator, and the general nature of the allegations that will be investigated. You will also be told that any retaliation against you, or any potential witness or others participating in or cooperating with the investigation is prohibited. You will be told to contact the investigator right away if you believe that you or others are being retaliated against for bringing the complaint or assisting in the investigation.

**Who will be notified of the investigation?**

While every attempt will be made to limit information to a strict need-to-know basis, and depending on the particular facts of each complaint, your manager, the Department Head or their designee, the Departmental Chief Justice and the Deputy Court Administrator, or Commissioner may be notified.

Unless your complaint is against your manager, they will be contacted as part of the investigation. Higher-level manager such as a Departmental Chief Justice, if appropriate, may be notified of the outcome of the investigation.

All such notifications will be marked as confidential.

**Will I be interviewed?**

The investigator will contact you so that you may provide whatever information is necessary. You may already have provided a great deal of information when you made your complaint or during any preliminary inquiry. The investigator will ask you to provide any additional information, and may contact you more than once during the investigation for information as issues arise or the investigator has more questions. You can contact the investigator if additional information comes to your attention or you remember relevant details.

**Can I have someone with me when I am interviewed?**

If you choose, you may bring a personal representative with you to any interview. The personal representative may be a union steward or business agent, attorney, or other representative from outside the Trial Court.

**Can my representative answer the investigator's questions for me?**

No, the role of a personal representative is to advise you. The investigator needs to hear from you directly.

**What if I have a disability that is made worse due to the stress of the interview?**

It is your responsibility to inform of the investigator of any request for a reasonable accommodation prior to the interview.

**Will an investigator talk to everyone I identify as a potential witness?**

The investigator will contact individuals who can provide relevant information, but it may not be necessary to speak to everyone. The investigator will determine whether some or all identified witnesses (or other people who may have information) will be interviewed.

**Can witnesses have a representative?**

Yes, the same rules apply to witnesses.

**Will the parties to the complaint know what a witness says in their interviews?**

The investigator will strive to refrain from telling the parties what each witness stated in their interviews. However, there will be instances when the witness statement must be shared with the parties. The investigator will explain address these concerns prior to beginning an interview with each witness.

**Will the investigator take notes?**

The investigator will document all interviews and retain the notes, as well as copies of all documents he or she or they review, and will keep these in a confidential file. These notes will not be shared with any party to the investigation.

**Am I prohibited from talking to anyone else about my complaint?**

You are free to talk with your union or personal representative and to speak with others to gather information or witnesses to support your complaint. You are strongly discouraged from discussing the investigation with those with no need to know. Rumors and speculation may interfere with the goal of conducting a fair and thorough investigation, and may impact your own expectation of privacy, as well as the privacy of others involved.

**Will the investigator interview the person against whom I have made a complaint?**

Yes, in almost all circumstances the investigator will do so.

**What if anyone refuses to cooperate in an investigation?**

All appointed officials, managers, supervisors, and employees are required to cooperate during an investigation and provide truthful information. Failure to do so may result in disciplinary action.

Nonetheless, the investigation will continue and conclusions may be drawn despite anyone having refused to cooperate in the investigation.

**What happens after the investigator finishes the investigation?**

The investigator will draft a report including recommended conclusions as to whether it is more likely than not that the Policy has been violated, as well as a full evaluation and analysis of the evidence. The report will be given to the Director of the Office of Workplace Rights & Compliance (OWRC), who has seven business days to review the report and either accept the recommended conclusions or propose further action.

**Will I receive a copy of the investigator's report?**

Depending on the circumstances, the person filing the complaint and the person against whom the complaint is brought will receive a summary of the report and be notified of the conclusion of whether it is more likely than not that the prohibited conduct occurred and if so, whether it constituted a violation of the Policy.

**If my complaint is found to be unsubstantiated, does that mean I can be accused of filing a false claim?**

It is presumed that complaints are filed in good faith. That the claim was not found to be substantiated by sufficient evidence is not proof that it was a knowingly filed false claim. However, those who are determined to have filed a false claim may receive appropriate corrective action.

**What if, after the investigation, I think my manager or someone else may be acting in a negative way because of the complaint?**

You should notify the Office of Workplace Rights & Compliance (OWRC), as soon as possible if you believe you may be retaliated against or further incidents occur.

**FREQUENTLY ASKED QUESTIONS IF A COMPLAINT IS FILED AGAINST YOU AS A TRIAL COURT EMPLOYEE**

**Will I be told if anyone files a complaint against me under this Policy?**

You will be notified of a complaint against you at least 24 hours before you are interviewed, will normally be given a copy of complaint or a sufficient description of the allegations, will be informed about the prohibition against retaliation, and will be informed that you are expected to cooperate in the investigation.

**What if a complaint is screened out before an investigation takes place? Will I be told about the complaint anyway?**

The Policy does not provide that complaints that do not proceed to an investigation are shared with the person or persons named in the complaint.

**Who will be notified of the investigation?**

While every attempt will be made to limit information to a strict need-to-know basis, and depending on the particular facts of each complaint, your manager, the Department Head or their designee, the Departmental Chief Justice and the Deputy Court Administrator, or Commissioner may be notified.

Higher-level manager such as a Departmental Chief Justice, if appropriate, may be notified of the outcome of the investigation.

All such notifications will be marked as confidential.

**If a complaint against me is investigated, will I always get a full copy of the actual complaint?**

Any complaint that is provided to a person against whom the complaint is brought will likely have some necessary redactions, including personal contact information like emails or telephone numbers of the person filing the complaint. The investigator will also insure that certain other private information that may have been included on the complaint form, such as medical information or other material not relevant to an investigation is also redacted.

In the limited situation where there is reason to believe that sharing a copy of the complaint would create a substantial risk that evidence might be lost or destroyed or that there is a substantial danger of retaliation against the person bringing the complaint or anyone named in the complaint, the actual complaint will not be provided. In such a case a sufficient description of the allegations will be otherwise given to the person against whom the complaint is brought in order to allow the person to adequately prepare to respond.

**Will I be allowed to bring a representative to any interview?**

Yes, anyone interviewed may have a personal representative, such as a union steward or business agent, attorney or another representative from outside the Trial Court. The representative may advise you, but is not there to answer the investigator's questions for you. The investigator needs to hear directly from you.

**What if the representative I want is not available?**

The investigator has the discretion to schedule interviews and may allow a reasonable time to secure a representative, but the Policy goal of completing investigations within 30 business days may mean that any lengthy delay will not be allowed.

**What if I have a disability that is made worse due the stress of the interview?**

It is your responsibility to inform of the investigator of any request for a reasonable accommodation prior to the interview.

**Will an investigator talk to everyone I identify as a potential witness?**

The investigator will ask you to identify potential witnesses and will contact individuals who can provide relevant information, but it may not be necessary to speak to everyone. The investigator will determine whether some or all identified witnesses (or other people who may have information) will be interviewed. You are encouraged to provide any documentation that is relevant to the complaint such as emails, video, or text messages.

**Can witnesses have a representative?**

Yes, the same rules apply to witnesses.

**Will the parties to the complaint know what a witness says in their interviews?**

The investigator will not generally share what each witness stated in their interviews, but may present a summary of what was stated. However, there will be instances when the witness statement must be shared with the parties. The investigator will explain and address these concerns prior to beginning an interview with each witness.

**Will the investigator take notes?**

The investigator will document all interviews and retain the notes, as well as copies of all documents he or she or they review, and will keep these in a confidential file. These notes will not be shared with any party to the investigation.

**Am I prohibited from talking to anyone else about my complaint?**

You are free to talk with your union or personal representative and to speak with others to gather information or witnesses to support your response to the complaint. You are strongly discouraged from discussing the investigation with those with no need to know. Rumors and speculation may interfere with the goal of conducting a fair and thorough investigation, and may impact your own expectation of privacy, as well as the privacy of others involved.

**Will the investigator re-interview the person who brought the complaint against me?**

Yes, if new information is learned, the investigator may re-interview the parties and any witnesses as the investigator may deem necessary.

**What if I or one of my witnesses refuses to cooperate in an investigation?**

All appointed officials, managers, supervisors, and employees are required to cooperate during an investigation and provide truthful information. Failure to do so may result in disciplinary action.

Nonetheless, the investigation will continue and conclusions may be drawn despite anyone having refused to cooperate in the investigation.

**If a complaint is filed against me, am I presumed to have violated this Policy?**

Absolutely not. The investigations process is designed to be thorough, fair, impartial, and equitable so as to find out what actually happened and whether it is more likely than not that the Policy may have been violated.

**Who will know that I am the subject of a complaint?**

The privacy of anyone involved in a complaint under this Policy will be respected by the Office of Workplace Rights & Compliance (OWRC), the Departmental Administrative Offices and any investigator assigned to investigate the matter. Only those individuals with a need to know will be informed. To investigate a complaint thoroughly, however, it may be necessary to disclose information concerning the details of a complaint, including the identity of relevant individuals. The investigation will be conducted in as confidential manner as practicable and persons involved in the investigation will be strongly encouraged not to discuss the matter with anyone without a legitimate need to know.

**What happens after the investigation?**

The investigator will draft a report, including a full evaluation and analysis of the evidence, and will provide recommended conclusions as to whether it is more likely than not that the Policy was violated. Both you and the person bringing the complaint will be notified and given a summary of the report. Any corrective action will be determined by your manager. Copies of this written notification will be sent to higher-level managers as appropriate, and Human Resources Department.

**If I am disciplined as a result of a complaint, do I have any right of appeal?**

An employee covered by a union contract can file a grievance over any discipline. Certain discipline of a management employee must be reviewed by the Court Administrator with possible appeal to the Advisory Committee on Personnel Standards in the event of a termination.

**If the complaint against me is found to be unsubstantiated, does that mean it was an intentional filed false claim?**

It is presumed that complaints are filed in good faith. That the claim was not found to be substantiated by sufficient evidence is not proof that it was a knowingly filed false claim. However, those who are determined to have filed a false claim may receive appropriate corrective action.

**What if, after the investigation, I think my manager or someone else may be acting in a negative way because of the complaint?**

You should notify the Office of Workplace Rights & Compliance (OWRC), as soon as possible if you believe you may be retaliated against.

## **COMPLAINTS AGAINST JUDGES, CLERKS, REGISTERS, AND THE RECORDER**

### **Who investigates complaints against judges?**

Because of statutes providing special oversight of judges, clerks, registers, and the recorder, the Office of Workplace Rights & Compliance (OWRC), will forward any complaints alleging discrimination, harassment, or retaliation by one of these officials to the Departmental Chief Justice.

The Departmental Chief Justice is responsible for investigating a complaint against a judge, except for complaints filed with the Commission on Judicial Conduct.

### **Who investigates complaints against a clerk, register, or the recorder?**

The Departmental Chief Justice is responsible for these investigations as well, unless the complaint is referred to the Trial Court Committee on Professional Responsibility for Clerks of the Courts.

### **What is the investigations process for these complaints?**

The Departmental Chief Justice will conduct the review, investigation, and resolution of a complaint against a judge, clerk, register, or the recorder in a manner substantially consistent with the general procedures for all other complaints under this Policy, and may consult with the Office of Workplace Rights & Compliance (OWRC), or designate or join with that Office to conduct any portion of an inquiry or investigation.



**THE OFFICES, PERSONS, OR HOTLINE NUMBER TO WHICH YOU MAY MAKE A COMPLAINT INCLUDE THE FOLLOWING:**

**Office of Workplace Rights & Compliance (OWRC)**

**Hotline: 617-878-0411**

**Email: [WorkplaceRights@jud.state.ma.us](mailto:WorkplaceRights@jud.state.ma.us)**

Margaret Peterson Pinkham, Director  
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Direct: 617-878-0416  
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**Office of Diversity, Equity, Inclusion and Experience (ODEIE)**

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