

OPD POLICY AGAINST SEXUAL HARASSMENT

I. POLICY

The Office of the Public Defender ("OPD") is committed to providing every employee with a workplace free from unlawful sexual harassment. The OPD is equally committed to providing each client that we serve with quality representation free of sexual harassment. Sexual harassment is a form of gender discrimination and will not be tolerated.

Unlawful discrimination/harassment undermines the integrity of the attorney-client relationship, the employment relationship, compromises equal employment opportunities, debilitates moral, interferes with work productivity, and jeopardizes the ability to properly and adequately represent our clients. This policy applies to all employees including both staff and pool attorneys. The OPD will not tolerate harassment by anyone in the workplace including supervisors, co-workers or non-employees.

This policy applies to conduct which occurs in the workplace and also extends to conduct which occurs at any location that can be reasonably regarded as an extension of the workplace, such as any field location, any off-site business-related social function, or any facility where OPD business is being conducted and discussed.

It is a violation of this policy for Public Defender employees, per diem employees, and pool attorneys to engage in sexual harassment of any kind against Public Defender employees or clients. Public Defender employees, per diem employees, and pool attorneys are also prohibited from engaging in any sexual contact, sexual advances, verbal or physical conduct of a sexual nature, or inappropriate behavior with Public Defender clients.

For the purposes of this policy, sexual harassment, with or without sexual conduct, is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or a client's representation;

submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual or as the basis for continued representation of a client; or

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 for Public Defender employees or clients.

Sexual Harassment generally falls into two categories: quid pro quo and hostile work environment harassment:

A. Quid Pro Quo Sexual Harassment is a form of harassment that may include unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct based on the gender of the affected employee or client when: (a) submission to such conduct is made either explicitly or implicitly a term or condition of either employment or continued legal representation; or (b) submission to or rejection of such conduct by an individual is used as a basis for employment decisions or continued representation.

It shall be a violation of this policy for any person to use his or her authority to make any sexual advances towards an individual over whom the person is authorized to make, recommend or otherwise to influence personnel actions; to grant, recommend, or refuse to take personnel action on the basis of an employee's gender or sexual orientation or in exchange for sexual favors; or to take or fail to take a personnel action as reprisal against any employee for rejecting or reporting a sexual advance. Sexual advances or requests for sexual favors can be in the form of either expressed or implied comments, writings, or actions.

B. Hostile Work Environment Sexual Harassment is a form of harassment that may include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. Gender-based harassment may give rise to a claim of a hostile environment whether or not sexual activity or language is involved, if it has the purpose or effect of abusing, devaluing or subordinating the members of one sex and it adversely affects an individual's employment opportunities.

C. Third party harassment is unwelcome behavior of a sexual nature or based on sex that is not directed at an individual but is a part of an individual's work environment.

Examples of Prohibited Behaviors That May Constitute Sexual Harassment include but are not limited to:

Generalized gender-based remarks and comments.

Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement.

Verbal or written sexually aggressive or obscene comments, jokes or propositions including letters, notes, e-mail, invitations, gestures, or inappropriate comments about a person's clothing.

Visual contact, such as leering or staring at another's body, gesturing, displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals.

Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention.

Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any employment practice such as performance evaluations or promotional opportunity.

Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.