



**NORTHERN MARIANA ISLANDS
JUDICIAL BRANCH
EQUAL EMPLOYMENT
OPPORTUNITY (EEO)
POLICY**

Adopted by the
COMMONWEALTH JUDICIAL COUNCIL
February 24, 2021

**Northern Mariana Islands Judicial Branch
Equal Employment Opportunity (EEO)
Policy**

1. Authority

This policy is adopted pursuant to NMI Supreme Court Rule 52(a).

2. Purpose and EEO Policy Statement

The Northern Mariana Islands Judiciary (“Judiciary”) is an equal employment opportunity provider. The Judiciary’s policy is to provide equal employment opportunities and inclusiveness to all employees, applicants, volunteers, and interns regardless of race, color, religion, age, sex, national origin, disability, gender identity or expression, sexual orientation, pregnancy, status as a parent, family medical history or genetic information, or any other characteristics protected by federal or CNMI law.

This policy applies to all terms and conditions of employment, including, but not limited to, recruitment, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation, training, and career development programs.

The Judiciary is committed to attracting candidates who represent the make-up of persons available in the qualified labor market and to hire individuals based on job-related factors. It makes reasonable efforts to see that the skills, abilities, and potential of each employee are identified and developed, and that all employees are given equal opportunities for promotions by being offered cross-training, reassignment, job restructuring, special assignments, and outside job-related training, subject to available court resources.

Further, the Judiciary aims to apply equal employment opportunity practices and policies in its work units. This includes giving each employee a fair and equal opportunity to demonstrate their skills and, where those abilities exceed general performance standards, to be recommended for awards recognizing such achievements.

3. Coverage

This policy shall apply to all employees of the Judiciary, including employees of the Supreme Court, Superior Court, the Commonwealth Law Revision Commission, justices and judges, applicants, volunteers, and interns (collectively

referred to as “employees” or individually as “employee”).¹ This policy applies to conduct in and outside of Judiciary facilities, which includes conduct in any work-related settings, including but not limited to, business meetings, business trips, and business-related events.

4. Definition.

- (a) “Bona Fide Occupational Qualification” means an exception to the prohibition of discrimination based on sex, religion, or national origin. It recognizes that in some extremely rare instances, a person’s sex, religion, or national origin may be reasonably necessary to carry out a particular job function in the normal operation of an employer’s business or enterprise.²
- (b) “Disability” means a person who has a physical or mental impairment that substantially limits one or more major life activity. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability. The ADA also makes it unlawful to discriminate against a person based on that person’s association with a person with a disability.³
- (c) “Discrimination” means unfair treatment because of race, color, religion, age, sex, national origin, disability, gender identity or expression, sexual orientation, pregnancy, status as a parent, family medical history or genetic information, or any other characteristics protected by federal or CNMI law.
- (d) “Harassment” means unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where (1) enduring the unwelcome conduct becomes a condition of continued employment, or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

¹ While applicants, volunteers, and interns are not employees of the Judiciary, the term “employee” will be used in this policy to cover applicants, volunteers, and interns for purposes of convenience and uniformity.

² <https://www.eeoc.gov/laws/guidance/cm-625-bona-fide-occupational-qualifications>

³ <https://adata.org/faq/what-definition-disability-under-ada>

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.⁴

- (e) “EEO Officer” is a Judiciary employee that is appointed by the Chief Justice and whose primary responsibility is to ensure the Judiciary’s compliance with EEO laws and regulations. Such responsibility includes, but is not limited to, assuring diversity in employment; providing non-discrimination training; preparing an annual report for each fiscal year indicating the number of complaints initiated, types of complaints initiated, and number of complaints resolved; and other duties associated with this Policy.
- (f) “EEO Counselor” is a Judiciary employee appointed by the Chief Justice who, serving as a neutral party, handles equal opportunity complaints, gathers limited data and provides an aggrieved individual with their rights and obligations under the policies adopted by the Judiciary.
- (g) “Retaliation” occurs when an employer takes a materially adverse action because an applicant or employee asserts rights protected by EEO laws or policies. Asserting EEO rights is called “protected activity.”⁵
- (h) “Supervisor” means an individual who has the authority to undertake or recommend tangible employment decisions affecting an employee. Supervisors may include, but are not limited to, members of the bench, division heads, or managers.

5. Prohibition on Discrimination, Harassment, or Retaliation

The Judiciary commits and strives to create and maintain a professional, respectful, safe, and fair working environment free of discrimination, harassment, or retaliation. Every employee has a right to be protected from and has an obligation to not engage in unlawful discrimination, harassment, or retaliation.

(a) Discrimination

⁴ <https://www.eeoc.gov/harassment>

⁵ <https://www.eeoc.gov/laws/guidance/questions-and-answers-enforcement-guidance-retaliation-and-relatedissues#:~:text=Employers%20must%20not%20retaliate%20against,t%20a%20perceived%20EEO%20violation.>

Discrimination based on race, color, religion, age, sex, national origin, disability, gender identity or expression, sexual orientation, pregnancy, status as a parent, family medical history or genetic information, or any other characteristics protected by federal or CNMI law is prohibited, except where a bona fide occupational qualification (“BFOQ”) exists.

(b) Harassment

Harassment based on race, color, religion, age, sex, national origin, disability, gender identity or expression, sexual orientation, pregnancy, status as a parent, family medical history or genetic information, or any other characteristics protected by federal or CNMI law is prohibited.

(1) Generally.

Unwelcome conduct may include, but is not limited to, jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

- i. Harassment can occur in a variety of circumstances, including, but not limited to, the following:
 - a. The harasser can be the victim’s supervisor, a supervisor in another area, an agent of the employer, or a co-worker.
 - b. The victim does not have to be the person harassed but can be anyone affected by the unwelcome conduct.
- ii. Unlawful harassment may occur without economic injury to, or discharge of, the victim.

(2) Sexual Harassment.

- i. Sexual Harassment is a form of prohibited harassment. It occurs when:
 - a. Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting such individual;
 - b. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance; and/or
 - c. Such conduct has the purpose or effect of creating an intimidating, hostile, or abusive working environment.
- iii. Sexual harassment may include, but is not limited to, the following:

- a. Verbal: Sexual innuendo, sexual slurs, suggestive comments, threats or insults of a sexual nature, jokes about gender specific traits, sexual propositions, sexual pranks, repeated sexual teasing, verbal abuse of a sexual nature, repeatedly asking a person to socialize during off-duty hours when the person has said no or has indicated they are not interested (supervisors in particular should be careful not to pressure their employees to socialize);
- b. Nonverbal: Making sexually suggestive or insulting noises, making sexually obscene gestures, whistling, leering, trapping or restraining a person, indecent exposure, arranging to be alone with a person for the purpose of making sexual advances;
- c. Physical: Touching, pinching, brushing the body, kissing, assaulting, repeatedly standing too close, coercing sexual intercourse;
- d. Others: Giving gifts or leaving objects that are sexually suggestive;
- e. Work Environment: Display, including distribution or communication through electronic systems, of sexually suggestive photographs, literature, cartoons, calendars and/or graffiti; and/or
- f. Retaliation for threatening to report sexual harassment.

(c) Retaliation

Retaliating for asserting protected activity, EEO rights, communicating opposition to a perceived EEO violation, or filing a discrimination charge, testifying, or participating in any way in an investigation, complaint, proceeding, or lawsuit is prohibited.

Engaging in protected or EEO activity, however, does not shield an employee from all discipline or discharge. The Judiciary is free to discipline or terminate employees if motivated by non-retaliatory and non-discriminatory reasons that would otherwise result in such consequences.⁶

6. Reasonable Accommodation

- (a) Disability.** The Judiciary will provide reasonable accommodation to qualified employees that enable them

⁶ <https://www.eeoc.gov/retaliation>

to enjoy equal employment opportunities.
Accommodations may include, but are not limited to:

- (1) Making existing facilities accessible;
- (2) Job restructuring;
- (3) Part-time or modified work schedules;
- (4) Acquiring or modifying equipment;
- (5) Changing tests, training materials, or policies;
- (6) Providing qualified readers or interpreters; and
- (7) Reassignment to a vacant position.

- (b) **Religion.** The Judiciary will provide reasonable accommodation to employees to exercise their religious beliefs.
- (c) **Requesting a Reasonable Accommodation.** Employees requiring reasonable accommodation must make their request to their supervisor or to the Office of Human Resources, in writing.
- (d) **Discussion of Potential Accommodation for Disability.** The supervisor, the Office of Human Resources, and person requesting the accommodation shall meet and interactively discuss the potential accommodation within ten (10) business days after the request. When the disability or the need for accommodation is not obvious, the Office of Human Resources may ask the employee for reasonable documentation about their disability and functional limitations.
- (e) **Decision regarding Disability Reasonable Accommodation.** If the Office of Human Resources determines that an accommodation for disability is necessary and can be met without significant difficulty or expense to the Judiciary, the accommodation request will be approved within ten (10) business days of the meeting. If the Office of Human Resources determines that no accommodation is reasonable or necessary, the Office of Human Resources shall consult with the EEO Officer within ten (10) business days of the meeting before rejecting the accommodation.
- (f) **Discussion of Potential Accommodation for Religion.** The supervisor, the Office of Human Resources, and the person requesting the accommodation shall meet and interactively discuss the potential accommodation within (10) business days after the request. The supervisor or Office of Human Resources shall not attempt to verify the person's beliefs unless the Office of Human Resources has reason to doubt that the belief or practice at issue is religious or sincerely held.
- (g) **Decision regarding Religion Reasonable Accommodation.** If the Office of Human Resources determines that an accommodation for religious belief

can be met without difficulty or expense, the Office of Human Resources shall approve the accommodation within ten (10) business days of the meeting. If the Office of Human Resources determines that no accommodation is reasonable, the Office of Human Resources shall discuss the matter with the EEO Officer within ten (10) business days of the meeting before rejecting the accommodation.

7. Complaint Review Process

(a) Special Procedure for Complaints against Justices and Judges.

Formal responses to complaints of discrimination, harassment, or retaliation against justices and judges shall be processed pursuant to the NMI Rules of Judicial Disciplinary Procedure.

(b) Before the Complaint.

If it is safe for the employee(s) to do so, an employee who believe they have been subject to discrimination, harassment or retaliation are encouraged to tell the person who is engaging in such a behavior to stop and that their behavior violates this policy. An employee who believes they have been subject to discrimination are encouraged to keep a record of incidents, including dates, times, locations, and possible witnesses.

(c) Initial Complaint.

To file a complaint, an employee must submit a “EEO Complaint Form” (Appendix A) within 180 days of the alleged wrongful conduct or within 180 days of the time the Employee becomes aware or reasonably should have become aware of such wrongful conduct to any of the following persons: EEO Counselor, any supervisory employee, or the Office of Human Resources. If the complaint was made to the supervisory employee or the EEO Counselor, the complaint must be routed immediately to the Office of Human Resources.

(d) Complainant’s Signature and Date

The complaint shall be signed and dated by the employee alleging the unwelcome behavior or misconduct.

(e) Criminal Allegations

If criminal allegations are made in the complaint, the Office of Human Resources shall notify the police immediately.

(f) Immediate Resolution

- (1) Upon receiving a signed complaint, the Office of Human Resources, after consulting with the EEO Officer and the employee's supervisor, shall determine whether the complaint may be resolved immediately. A complaint may be resolved immediately for one or more of the following reasons:
 - i. If the allegations do not identify a complex problem;
 - ii. the allegations do not involve a number of employees;
 - iii. the allegations do not threaten the ability of the Judiciary to provide equal justice under law;
 - iv. the facts are not likely to be in dispute.
- (2) If the Office of Human Resources determines that the complaint may be resolved immediately, the Office shall refer the matter to the employee's immediate supervisor to discuss the possibilities of immediate resolution.
- (3) If no resolution is possible and/or if a solution acceptable to the employee alleging the unwelcome behavior and/or misconduct cannot be reached within ten (10) working days of the receipt of the complaint by the Office of Human Resources, the complaint shall be further investigated in accordance with this Policy.

(g) Formal Investigation

If the Office of Human Resources determines that allegations require further investigation; or if no resolution is possible pursuant to **6(f)** of this Policy, then the matter shall be further investigated.

(h) Appointment of Investigator

The Chief Justice or the Presiding Judge⁷ shall immediately appoint an investigator to conduct a formal investigation and may take reasonable interim actions to prevent discrimination, harassment, or retaliation from occurring while the investigation is underway.

(i) Qualifications of Investigator.

The investigator shall be neutral, objective, and free of perceived bias. The Judiciary may appoint an investigator who is not associated with the Judiciary, if necessary, to provide an effective investigation. The

⁷ If the complainant is within the Supreme Court, the Chief Justice shall appoint the investigator. If the complainant is with the Superior Court, the Presiding Judge shall appoint the investigator.

investigator shall maintain the confidentiality of the investigation.

(j) Conduct of Investigation.

The investigation shall include an outline of the planned investigation, including the issues to be investigated and the facts as alleged by the complainant. The investigator shall have the power to access the Judiciary records as needed to complete the investigation and to interview people associated with the Judiciary during the course of the investigation. The investigator shall inform any interviewed people of the following:

- (1) The purpose of the investigation;
- (2) What is expected of the interviewee;
- (3) The Judiciary has not yet made any findings;
- (4) The interviewee's duty to respond to the investigator's questions;
- (5) The interviewee's duty to disclose all relevant information to the investigator;
- (6) Failure to cooperate with the investigation may result in disciplinary action, up to and including termination, if the interviewee is a Judiciary employee;
- (7) The interviewee's obligation not to discuss the investigation with anyone until it is complete;
- (8) The Judiciary's policy prohibiting retaliation; and
- (9) How to contact the investigator if the interviewee remembers any more pertinent information.

(k) Investigator's Report.

The investigator shall provide a report of their findings to the Office of Human Resources, the EEO Officer, and the Chief Justice or the Presiding Judge.⁸ This report shall be maintained separately from personnel files. The investigator shall provide the report within twenty (20) business days of appointment, unless the investigator submits a written request to the Chief Justice or the Presiding Judge explaining why the investigation cannot be completed within twenty (20) business days. The investigator shall not make any legal conclusions.

(l) Corrective and/or Disciplinary Action.

After the investigation and report is completed, the Office of Human Resources, the EEO Officer, and the Chief Justice or the Presiding Judge shall determine

⁸ If the complainant is within the Supreme Court, the investigation report shall be provided to the Chief Justice. If the complainant is with the Superior Court, the investigation report shall be provided to the Presiding Judge.

whether corrective and/or disciplinary action is necessary. The corrective and/or disciplinary action must be sufficient to end the discriminatory conduct. Disciplinary action may include suspension or termination. The determination of final disposition shall take place in accordance with the NMI Judicial Branch Personnel Rules.

(m) Alternates.

If the Office of Human Resources, EEO Officer, or any other employee assisting with the complaint process is the subject of the complaint, another employee may be designated by the Chief Justice or the Presiding Judge.

8. Confidentiality

All individuals involved in the processes under this Policy must protect the confidentiality of the allegations of wrongful conduct. Information will be shared only to the extent necessary and only with those whose involvement is necessary to address the situation. An assurance of confidentiality must yield when there is reliable information of wrongful conduct that threatens the safety or security of any person or that is serious or egregious such that it threatens the integrity of the Judiciary.

9. Right to Representation

Employees have the right to be represented by an attorney or other person of their choice at their own expense.

10. Duty to Report

All employees are expected to maintain a work environment that is free from discrimination, harassment, and retaliation and are encouraged to promptly report conduct that they believe violates this policy. The Judiciary will promptly investigate, and if necessary, correct or discipline behavior that violates this policy.

A Supervisor has an affirmative duty to report any EEO concerns or alleged violations of this Policy or any of the policies above to the appropriate personnel, even if the Supervisor has been asked not to report the incident. Supervisors may be subject to disciplinary action for failing to report. In instances where such rights are violated, employees have a right to report the violation or file a complaint.

11. Training Requirements

The Judiciary will host annual trainings, aimed to increase the understanding and prevention of workplace discrimination and harassment. The Office of Human

Resources shall coordinate trainings and create necessary forms to implement this Policy.

12. Alternate Remedies

Nothing in this policy or the adopted policies referenced above prevent an employee from filing complaints or pursuing remedies through the federal EEOC or other appropriate governmental agencies.

13. Relationship to Federal and Commonwealth law

In the event there are inconsistencies between the provisions of this policy and federal or Commonwealth law, the applicable federal or Commonwealth law will govern.

14. Extension of Timeline

The Judiciary will process complaints in accordance with the timeline provided by this Policy. For good cause, the Chief Justice or his designee may extend the timeline as reasonably necessary to properly handle all matters arising out of this Policy.

15. Forms

The Office of Human Resources, in consultation with the EEO Officer, create new forms and amend the EEO Complaint Form for the betterment of the Judiciary and this Policy.



Equal Employment Opportunity (EEO) Complaint Form

1. Protected Classification:

- | | |
|--|---|
| <input type="checkbox"/> Age | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Sex |
| <input type="checkbox"/> Genetic Information | <input type="checkbox"/> Sexual Orientation |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Ancestry |
| <input type="checkbox"/> Pregnancy | <input type="checkbox"/> Honorably Discharged Veteran/Military Status |
| <input type="checkbox"/> Race/Color | <input type="checkbox"/> Other Protected Classification: |
| <input type="checkbox"/> Religion | _____ |

(Please Type or Print)

2. Name: _____
 Last First Middle

3. Division/Section: _____

4. Job Title: _____

5. Email Address: _____

6. Mailing Address: _____

7. Residential Address: _____

8. Work Phone: _____ 9. Home Phone: _____

10. Cellular Phone/Other Contact Numbers: _____

11. Contact Person if we are unable to reach you:

Name: _____
Relationship: _____
Mailing Address: _____
Contact Numbers: _____

12. I believe that I was harassed, discriminated, or retaliated against by the following individual:

Name: _____
Job Title: _____
Division: _____

(For Questions 13 & 14, please add additional sheets if necessary)

13. Indicate the date and location of the incident(s): _____

14. Explain how you believe you were harassed, discriminated, or retaliated against: _____

15. Please indicate below any witness(es) to the alleged incident(s) of discrimination, harassment, or retaliation: _____



Equal Employment Opportunity (EEO) Complaint Form

16. Please indicate how the incident affected your job performance, if any, or other terms or conditions of your employment: _____

17. Please indicate names of other individuals who have been subject to the same or similar harassment: _____

18. What steps, if any, did you take to try to stop the harassment or discrimination; _____

19. Please indicate any other information the complainant believes to be relevant to your complaint:

20. Are you represented by an attorney or another person? If yes, please indicate name and contact number of your representative:

Signature of Complainant

Date