

IN THE SUPREME COURT OF THE STATE OF KANSAS

FILED

Administrative Order

June 4, 2021

2021-PR-065

DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS

Re: Amendment of the Rules Relating to Kansas Court Personnel

Effective the date of this order, Rules 1.1 (system purpose), 1.4 (h) and (p) (definitions), 5.1 (equal employment opportunity policy), 5.25 (regular business hours), 7.2 (b)(6) (disciplinary actions for personal misconduct), 7.3 (a) and (m) (disciplinary actions for serious or grievous offenses), 8.2 (d) (vacation leave), 9.1 (a) (scope and policy statement), Appendix C (I) (equal employment opportunity), Appendix C (III)(A)(1) (principles of equal employment opportunity/affirmative action), and Appendix C (IV)(C)(8) (personnel procedures for equal employment opportunity and affirmative action) of the Rules Relating to the Kansas Court Personnel System are hereby rescinded and replaced by the attached pages.

Dated this 4th day of June 2021.

FOR THE COURT



MARLA LUCKERT
Chief Justice

Attachment

1.1 System Purpose

The purpose of the Kansas court personnel system is to establish and maintain equitable and uniform policies, procedures, job classifications, and compensation plans to effectively:

- a. Provide equal employment opportunities to all applicants on the basis of merit regardless of race, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, genetic information, military or veteran status, political affiliation, or any other protected characteristic unrelated to the essential functions of the job.
- b. Ensure that all employees are properly compensated and that such compensation bears a direct relationship to the position occupied.

1.4 Definitions

- h. Discrimination. Discrimination in the workplace occurs when an unlawful adverse employment action is taken or threatened because of a person's, race, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, genetic information, military or veteran status, political affiliation, or any other protected characteristic unrelated to the essential functions of the job.
- p. Harassment. Unwelcome conduct based on race, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, genetic information, military or veteran status, political affiliation, or any other protected characteristic unrelated to the essential functions of the job if:
 1. enduring the offensive 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.

See also, KCPR 1.4(h) (discrimination) and 1.4(gg) (sexual harassment).

5.1 Equal Employment Opportunity Policy

All employment decisions regarding recruitment, selection, hiring, promotions, training, transfers, demotions, dismissal, and other terms and conditions of employment shall be made without discrimination on the grounds of race, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, genetic information, military or veteran status, political affiliation, or any other protected

characteristic unrelated to the essential functions of the job. Violations of this policy are punishable as serious or grievous offenses pursuant to KCPR 7.3 and 7.4.

5.25 Regular Business Hours

Regular business hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. The Chief Justice must approve deviations from regular business hours, except that the appointing authority may schedule lunch periods in accordance with local conditions. Appointing authorities may authorize alternate work hours that do not interfere with the ability to provide full service during regular business hours.

7.2 Disciplinary Actions for Personal Misconduct

- b. Reasons for which a reprimand may be issued include but are not limited to the following:
 - 1. Violation of or failure to comply with a policy or procedure set forth by the Supreme Court or local court rule.
 - 2. Action unbecoming an employee of a court or agency which could reflect adversely on the court or agency.
 - 3. Carelessness, negligence or improper use of funds, equipment or other resources of a court or agency.
 - 4. Engaging in outside business activities on court time or using court resources for such activity.
 - 5. Failure to maintain a satisfactory and harmonious working relationship with the public or fellow employees.
 - 6. Failure to fully engage in work tasks during scheduled work hours.

7.3 Disciplinary Actions for Serious or Grievous Offenses

Employees may be disciplined pursuant to KCPR 7.4 for committing serious or grievous offenses. Appointing authorities should coordinate discipline with the director of personnel. Just causes for discipline under this section include but are not limited to:

- a. Commission of any action which could cast serious doubt on the employee's ability to serve in a position of trust, including but not limited to abuse of remote work agreement, being convicted or being on diversion for any crime involving theft, violence, dishonesty, or possession or sale of illicit drugs.
- b. Abuse or misrepresentation of one's powers or authority as an employee of the Judicial Branch.

- c. Brutality or cruelty toward a resident of an institution, a person in custody or other persons, provided the act was not done in self-defense, to protect the lives of others or to prevent the escape of a person lawfully in custody.
- d. Being under the influence of alcohol or illicit drugs while on the job, being a current user of illicit drugs, or possessing illicit drugs at work.
- e. Accepting or requesting any fee, gift, service, or other valuable thing from any person for the personal benefit of the employee or a member of the employee's family or household when it reasonably appears the person believes the employee will, in the course of or in connection with the employee's work, perform some favor or give the person better treatment than other persons receive.
- f. Stealing, diverting or converting money or property belonging to or in the custody of any court or Judicial Branch department, or using Judicial Branch property or resources to conduct outside business activities.
- g. Acts of workplace violence, including threatening, disruptive or intimidating behavior, verbal abuse and physical assaults.
- h. Political activity in violation of the KCPR.
- i. Sexual or other workplace harassment. See KCPR 9.0, et seq.
- j. Knowingly releasing confidential information from court records.
- k. Failing or refusing to comply with a direct order or the proper direction of the appointing authority or designee.
- l. Engaging in conflicts of interest in violation of the KCPR.
- m. Abuse of remote work agreement or misrepresentation of work done while under a remote work agreement.

8.2 Vacation Leave

- d. Employees must request authorization from their immediate supervisor to use vacation leave. Vacation of more than one day and less than five should be requested with five full working days notice. Vacation of more than five working days should be requested with ten full working days notice. Vacation may be denied if there is not a timely request. See also KCPR 8.8 Leave Responsibility and Scheduling.

9.1 Scope and Policy Statement

- a. The Kansas Judicial Branch prohibits discrimination against and harassment of any employee because of race, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, genetic information, military or veteran status, political affiliation, or any other protected characteristic. Discrimination, harassment (including sexual harassment), and retaliation, as defined in KCPR 1.4, are considered conduct detrimental to court service. The policy described in KCPR 9.0 applies to recruitment, hiring, compensation, promotions, transfers, discipline, demotions, terminations, layoffs, access to benefits, and all other workplace conditions. See also KCPR 5.1 (Equal Employment Opportunity Policy).

APPENDIX C

KANSAS COURT PERSONNEL RULES

EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION PLAN

I. EQUAL EMPLOYMENT OPPORTUNITY:

"Equal employment opportunity" means the right of all persons to work and to advance on the basis of merit and ability without regard to race, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, genetic information, military or veteran status, political affiliation, or any other protected characteristic unrelated to the essential functions of the job. It is hereby declared to be the policy of the Kansas Judicial Branch to eliminate and prevent discrimination in all judicial branch employment relations and to eliminate and prevent any segregation within the judicial branch.

It is also declared to be the policy of the Kansas Judicial Branch to assure equal opportunity within the judicial branch and encouragement to every citizen regardless of race, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, genetic information, military or veteran status, political affiliation, or any other protected characteristic unrelated to the essential functions of the job in securing and holding, without discrimination, employment in any field of work or labor for which they are properly qualified.

III. PRINCIPLES OF EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION:

- A. Each appointing authority shall take the necessary steps to ensure equal employment opportunity for all court employees and for all applicants seeking employment within their jurisdiction.

All Judicial Branch supervisory employees shall assist the appointing authority and the Personnel Officer in ensuring that the following principles are applied:

1. That all decisions regarding recruiting, hiring, promoting, training, disciplinary actions and other terms and conditions of employment within the Judicial Branch shall be made without discrimination on the grounds of race, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, genetic information, military or veteran status, political affiliation, or any other protected characteristic which cannot lawfully be used as a basis for an employment decision.

IV. PERSONNEL PROCEDURES FOR EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION:

C. Recordkeeping: Each appointing authority should maintain or cause to be maintained, the records of procedures used in recruitment, selection, hiring, promotion, transfer, layoff, return from layoff, termination, and employment development, including training. If, at any time, an employee or rejected job applicant files charges of discrimination based on race, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, genetic information, military or veteran status, political affiliation, or any other protected characteristic, the director of personnel shall be notified promptly. The director of personnel may ask to see records concerning the issue (for instance, records of a selection process from first announcement of the position to the final decision.) Therefore, organized written records of the following should be maintained:

1. The job vacancy notice.
2. Copies of all correspondence with applicants (if a form letter is used, one copy plus a list of recipients is sufficient.).
3. Telephone recruitment log (a dated list of the persons contacted to disseminate information about the vacancy and the institutions with which they are associated if pertinent.)
4. Names of all applicants, with notation of date of application.
5. Copies of rating charts used in the first screening of candidates.
6. A copy of questions developed for interviewing.
7. All interview notes, or related documents.
8. All EEO/AA documents associated with recruitment for the position.