

**PROPOSED CHANGES TO CODE OF CONDUCT FOR U.S. JUDGES
AND JUDICIAL CONDUCT AND DISABILITY RULES**

Hearing before the Judicial Conference of the United States
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To the Committee on Codes of Conduct (The Honorable Ralph R. Erickson, Chair) and the Committee on Judicial Conduct and Disability (The Honorable Anthony J. Scirica, Chair):

My name is Lisa Hansmann, and I'm a first-year law student at the Yale Law School. I am testifying on a step that the Judicial Conference can take beyond the reforms it has already identified: creating a centralized office dedicated to addressing judicial misconduct.

I applaud the Committees' commitment to creating a healthy environment in which all judicial employees can bring their full selves. However, we suggest that the Conference go beyond its proposed amendments in achieving this goal. Judicial employees filed 0 out of the 1,303 judicial "misconduct" complaints in 2016.¹ We believe that this 0% employee reporting rate is driven by two fundamental flaws in the current procedures that the Conference has not yet addressed: (1) the lack of reporting avenues outside of the Chief Judges and (2) a dearth of informal reporting processes.

We recommend the Conference tackle these root causes head-on by establishing a centralized office dedicated to addressing internal complaints of judicial misconduct. The Judicial Conference Working Group Report already recommends creating an office like this. We see tremendous potential in that proposal. Such an office would resemble the institutional compliance structures that universities have developed in the Title IX context. Based on the lessons we've seen in the university context, I'd like to illustrate the three critical functions we believe this office could perform:

First, the central office could address the conflicts of interest in the current reporting process by creating an additional reporting channel that is external to the Chief Judge. Reporting to the Chief Judge might be a welcome option for some, but many judicial employees -- and clerks in particular -- may not feel comfortable doing so.² To that end, we recommend that the central office provide an alternative reporting channel for all judicial employees. This channel could function through a hub-and-spoke structure: non-judicial officers could be placed in each circuit for employees to comfortably report to, and could transfer information back to the central office. The Ninth Circuit is already piloting a similar program that this office could build on.

Second, the central office could reduce barriers to reporting by establishing a standardized system to receive informal reports from a range of stakeholders. The Federal Judiciary Workplace Conduct Working Group's report acknowledges that the current formal reporting processes are not well-suited to address forms of workplace misconduct that, although falling short of flat-out assault, nevertheless create an unprofessional or otherwise demeaning work environment.³ Because victims tend to minimize the severity of the harassment they experience, individuals may be discouraged from reporting what they perceive to be lower-level

¹ Federal Judiciary Workplace Conduct Working Group, *Report to the Judicial Conference of the United States* 19 (2018), http://www.uscourts.gov/sites/default/files/workplace_conduct_working_group_final_report_0.pdf.

² *Ibid.* at 19.

³ *Ibid.* at 17.

harassment, out of concern that their claims are insufficiently serious.⁴ The central office could put in place a centralized system that would confidentially receive informal reports from judicial employees. This would enable the office to aggregate reports. Upon receiving multiple reports against the same individual, the central office could notify the complainants and ask them if they'd like to file a formal complaint. We've seen systems of this type prove effective in tackling sexual abuse on college campuses and are able to share additional information on this issue upon request.

Third, the central office could perform an important data collection and de-identified reporting function to increase transparency, raise awareness, and change norms surrounding judicial misconduct. Having a centralized office to collect and assess all reporting data would empower the Conference to regularly track the efficacy of its reforms. The mere existence of such a regular report could affect conduct within the circuits and encourage circuit personnel working on misconduct complaints to be responsive.

Creating a centralized office with the functions I described would help this Committee achieve our shared goals. It would also send a powerful message that the Judiciary recognizes the seriousness of judicial misconduct and is facing the challenge head-on. Thank you for your time.

⁴ Chiara Sabina & Lavina Y. Ho, *Campus and College Victim Responses to Sexual Assault and Dating Violence: Disclosure, Service Utilization, and Service Provision*, 15 TRAUMA, VIOLENCE, & ABUSE 1 (2014).