

**EMPLOYMENT DISPUTE RESOLUTION PLAN  
FOR THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**



**Approved by Chief Judge Janet C. Hall: May 2, 2014**

s/Janet C. Hall

**Janet C. Hall  
Chief Judge**

**Approved by the Second Circuit Judicial Council: May 15, 2014**

## CHAPTER I GENERAL PROVISIONS

**§ 1. Preamble.** This Plan shall be known as the Employment Dispute Resolution Plan ("Plan") for the District Court for the District of Connecticut. This Plan was adopted in accordance with the Model Employment Dispute Resolution Plan ("Model EDR Plan"), which was adopted by the Judicial Conference of the United States on March 16, 2010, to provide rights and protections to employees of United States Courts comparable to those provided to legislative branch employees under the Congressional Accountability Act of 1995.

This Plan supersedes all previous versions of the EDR Plan for the District Court for the District of Connecticut and Appendix I (Discrimination Complaint Procedures) of the Judiciary Model EEO Plan, except for Section VI of Appendix 1 ("Annual Report"), which imposes requirements on the courts and remains in effect. Claims arising under Chapters II through VIII of the Model EDR Plan, or under Chapters I through VII of the Model EEO Plan, which are incorporated herein, are to be resolved in accordance with the procedures set forth in Chapter X of the Model EDR Plan.

The duties of the EEO Coordinator are assumed by the Employment Dispute Resolution Coordinator ("EDR Coordinator"), and the dispute resolution duties assigned to the EEO Coordinator under the Model EEO Plan are replaced by the dispute resolution procedures set forth in Chapter X of this Plan.

Any modification of this Plan must first be approved by the Second Circuit Judicial Council. A copy of the Plan shall be posted on the Court's internal and external websites. A copy of the Plan and any subsequent modifications shall be filed with the Administrative Office ("AO"). The Court shall annually submit a report on the implementation of its Plan to the AO for inclusion in the Director's Annual Report to the Judicial Conference.

Policies adopted by the Court pertaining to adverse action or general grievance proceedings that do not invoke the rights and protections afforded under the Plan are not affected by the Plan. Further, local policies relating to rights enumerated under the Plan that are not inconsistent with the rights and procedures established herein will not be affected by the Plan.

This Plan is not intended and should not be construed to duplicate the protections provided for resolving complaints of judicial officer misconduct or disability under 28 U.S.C. §§ 351, et seq. The Plan otherwise is intended to be the exclusive remedy for the denial or violation of rights enumerated herein.

**§ 2. Scope of coverage.** Except as provided below, this Plan applies to all judicial officers and employees of the Court, including: district court clerk's office staff, judges' chambers staffs, official court reporters, and staff attorneys. It also applies to applicants for employment with the Court, and to former Court employees.

It specifically does not apply to interns, externs, applicants for law clerk positions, the chief probation officer and his/her staff, private attorneys who represent indigent defendants under the



Criminal Justice Act or applicants for such positions, or to any other individual who is not an officer or employee of the Court.

**§ 3. Definitions.** For purposes of this Plan, the following terms apply:

- A. *Court* means the United States District Court for the District of Connecticut.
- B. *Claim* mean the filing of a request for counseling as set forth in Chapter X, which may be further pursued by the filing of a request for mediation and a request for hearing.
- C. *Employee* means all individuals listed in Section 2 of this Chapter.
- D. *Employing Office* means the Court unit or office, as applicable, including the clerk of court, court reporters, and staff attorneys, and any such offices that might be created in the future. The Court is the employing office of chambers staff, but court personnel outside of a chambers will not be involved, without the prior approval of the chief judge, in counseling, mediation or investigation with respect to a report of unlawful conduct, or an allegation of a violation, by a Judicial Officer that is made by chambers staff.
- E. *Judicial Officer* means a judge appointed under Article III of the Constitution to serve on the Court, or a United States magistrate judge.

## CHAPTER II EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-DISTRIMINATION RIGHTS

**§ 1. General.** Discrimination against employees based on race, color, religion, sex (including pregnancy and sexual harassment), national origin, age (at least 40 years of age at the time of the alleged discrimination), sexual orientation and disability is prohibited. Harassment against an employee based upon any of these protected categories or retaliation for engaging in any protected activity is prohibited. All of the above constitute "wrongful conduct." The rights and protections of Sections I through VII of the Judiciary's Model Equal Employment Opportunity Plan shall also apply to employees.

**§ 2. Definition.** As used herein, the term *disability* includes a physical or mental impairment that substantially limits one or more of the major life activities of an employee, a record of such an impairment, or being regarded as having such an impairment. *See 42 U.S.C. § 12102(2).*

**§ 3. Sexual Harassment.** Sexual harassment is one form of discrimination based on gender and can involve a variety of unwanted, unwelcome and repeated behaviors, including but not limited to sexually suggestive statements or questions, sexual innuendos, offensive touching, patting, sexual bribery, etc., where one of the following applies:

- A. submitting to such conduct is either explicitly or implicitly a term or condition of employment, position, pay, recruitment, hiring, promotion, advancement and/or training; or
- B. submitting to or rejecting such conduct is a basis for career or employment decisions affecting the employee; or
- C. such conduct has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, hostile, or offensive work environment.

**§ 4. EEO Practices and Policies.** Each employing office shall apply equal employment opportunity practices and policies within the workplace. These include providing each employee a fair and equal opportunity to demonstrate his or her skills and recognizing exceptional performance through merit awards and other appropriate personnel actions as resources of the employing office permit. Each employing office shall adhere to the following practices

- A. **Recruitment.** Each position to be filled shall be publicized in a way to attract candidates who are broadly representative of the qualified labor market;
- B. **Hiring and Promotion.** Hiring and promotional decisions shall be based solely on job-related criteria; and
- C. **Advancement.** As the needs and resources of the employing office reasonably permit, employee skills, abilities and potential shall be identified and developed through cross-training, reassignments, job restructuring (when appropriate), special assignments, outside job-related training or other practical means.

**§ 5. Annual Report.** At the end of each fiscal year, the EDR Coordinator will collect, analyze, and consolidate statistical and narrative reports as well as other data regarding the recruitment, hiring, promotion and advancement activities during the preceding twelve months and will report this data to the chief judge and to the AO. The report will specifically include the following data:

- A. The number of claims initiated under this Plan;
- B. The types of claims initiated under this Plan according to race, sex (including pregnancy and sexual harassment), national origin, religion, age, and disability;
- C. The number of and types of claims resolved informally through counseling and mediation; and
- D. The number of claims that advance to formal complaints, the number and type of complaints resolved formally without a hearing, the number and type of complaints resolved formally with a hearing, and the number of complaints that are decided on review by the Second Circuit Judicial Council.



### **CHAPTER III FAMILY AND MEDICAL LEAVE RIGHTS**

**§ 1. General.** Title II of the Family and Medical Leave Act of 1993, 5 U.S.C. §§ 6381 et. seq., applies to court employees in the manner prescribed in Volume 12, Chapter 9, Section 920.20.35 of the *Guide to Judiciary Policies and Procedures*.

### **CHAPTER IV WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS**

**§ 1. General.** No “employing office closing” or “mass layoff” as defined below may occur until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to employees who will be affected. This provision shall not apply to an employing office closing or mass layoff which results from the absence of appropriated funds.

- A. *Employing Office Closing*** means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.
- B. *Mass Layoff*** means a reduction in force that is not the result of an employing office closing and that result in an employment loss at the single site of employment during any 30 day period for
  - a. (1) at least 33 percent of the employees (excluding any part-time employees);  
and
  - (2) at least 50 employees (excluding any part-time employees); or
  - b. at least 500 employees (excluding any part-time employees).

*See 29 U.S.C. § 2101.*

### **CHAPTER V EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES**

**§ 1. General.** An employing office shall not discriminate against an eligible employee or deny an eligible employee reemployment rights or benefits under the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 et seq.

## **CHAPTER VI OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS**

**§ 1. General.** Each employing office shall provide to its employees a place of employment which is free from recognized hazards that cause or are likely to cause death or serious physical harm to employees. Claims that seek a remedy that is exclusively within the jurisdiction of the General Services Administration ("GSA") or the United States Postal Service ("USPS") are not cognizable under this Plan; such requests should be filed directly with GSA or the USPS as appropriate.

**§ 2. Court program requirements.** The Court shall implement a program to achieve the protections set forth above.

## **CHAPTER VII POLYGRAPH TESTS**

**§ 1. General.** Unless required for access to classified information, or otherwise required by law, no employee may be required to take a polygraph test.

## **CHAPTER VIII WHISTLEBLOWER PROTECTION**

**§ 1. General –** Any employee who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or threaten to take an adverse employment action with respect to an employee (excluding applicants for employment) because of any disclosure of information to –

- A. the appropriate federal law enforcement authority, or
- B. a supervisor or managerial official of the employing office, a judicial officer of the court, or the Administrative Office of the United States Courts,

by the latter employee, which that employee reasonably and in good faith believes evidences a violation of any law, rule, or regulation, or other conduct that constitutes gross mismanagement, a gross waste of funds, or a substantial and specific danger to public health or safety, provided that such disclosure of information –

- 1. is not specifically prohibited by law,
- 2. does not reveal case-sensitive information, sealed material, or the deliberative processes of the federal judiciary (as outlined in the *Guide to Judiciary Policy*, Vol. 20, Ch. 8), and
- 3. does not reveal information that would endanger the security of any federal judicial officer.

**§ 2. Definition –** For purposes of this Chapter, an "adverse employment action" means a termination, demotion, transfer, or reassignment; loss of pay, benefits, or awards; or any other



employment action that is materially adverse to the employee's job status, compensation, terms, or responsibilities, or the employee's working conditions.

## **CHAPTER IX REPORTS OF WRONGFUL CONDUCT**

A report of wrongful conduct is not the same as initiating or filing a claim under this Plan; thus, employees who wish to file an EDR claim relating to any alleged wrongful conduct as defined in Chapter II, §1 must follow the procedures set forth in Chapter X of this Plan.

Judges and employees are encouraged to report wrongful conduct to the court's EDR Coordinator, the chief judge, unit executive, human resources manager, or their supervisor as soon as possible, before it becomes severe or pervasive. Retaliation against any employee making a report of wrongful conduct is prohibited. The person receiving such a report has the responsibility to notify the EDR Coordinator as soon as possible.

The EDR Coordinator shall promptly inform the chief judge and unit executive of any report. The chief judge and/or unit executive shall ensure that the allegations in the report are appropriately investigated, either by the human resources manager or other person.

All individuals involved in the investigation shall protect the confidentiality of the allegations of wrongful conduct to the extent possible. Information and records about the allegations shall be shared on a need-to-know basis.

Employees found by the chief judge and/or unit executive to have engaged in wrongful conduct, as defined in this Plan, may be subject to disciplinary action.

## **CHAPTER X DISPUTE RESOLUTION PROCEDURES**

**§ 1. General procedure for consideration of alleged violations.** An employee who claims a denial of the rights granted under Chapters II through VIII of this Plan, shall seek resolution of such claims through the procedures of this Chapter. Generally, the process consists of:

- A. counseling;
- B. mediation;
- C. Hearing before the chief judge of the court (or a designated judicial officer) in which the alleged violation arises; and
- D. review of the hearing decision under procedures established by the Second Circuit Judicial Council.

**§ 2. Alleged Violation by Employee.** Before invoking a request for counseling, an employee (to the extent feasible) is encouraged to bring his or her concerns to his or her supervisor or unit executive, unless the supervisor or unit executive is the alleged violator. In such a situation, the court or employing office should specify alternative neutral points of contact for the initial inquiry. An employee alleging that any of the rights granted under this Plan have been violated, and who seeks relief under this Plan, must file a request for counseling with their court's EDR Coordinator in accordance with Section 8 of this Chapter.

**§ 3. Alleged Violation by Judge.** Any employee alleging that a judge violated any rights granted under this Plan may file an EDR claim in accordance with this Plan. In such an instance, however, all the claims procedures of this Chapter shall be performed by the circuit council, either by members of the council directly or by persons designated to act on its behalf, which may include the chief judge of the circuit. If a judge becomes the subject of both an EDR claim and a judicial misconduct complaint under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364, the circuit judicial council or its designee, which may include the chief judge of the circuit, will craft a procedure for determining any common issues of fact and processing both complaints, subject to all requirements of the Act, the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and, as practicable, the EDR Plan. In so doing, the council or its designee, who may include the chief judge of the circuit, may determine that all or part of the EDR claim must be abated until action is taken on the judicial misconduct complaint.

**§ 4. Confidentiality.** The court or employing office shall protect the confidentiality of allegations filed under this Plan to the extent possible. However, information about allegations filed under this Plan shall be shared on a need-to-know basis. Records relating to violations under this Plan shall be kept confidential on the same basis.

**§ 5. General provisions and protections.**

- A. Prohibition against retaliation.** Claimants under this Plan have the right to be free from retaliation because of filing a claim pursuant to this Plan. Likewise, any person who participates in the filing or processing of a claim, such as an employment dispute resolution coordinator, mediator, witness, representative, or co-worker, is also entitled to freedom from retaliation.
- B. Right to representation.** Every individual invoking the dispute resolution procedures of this Plan has the right to be represented by a person of his or her choice if such person is available and consents to be a representative. A court employee may accept the responsibilities of representation if it will not unduly interfere with his or her court duties or constitute a conflict of interest, as determined by the representative's appointing officer.
- C. Case preparation.** To the extent feasible, every individual invoking the dispute resolution procedures of this Plan may use a reasonable amount of official time to prepare his or her case, so long as it does not unduly interfere with the performance of his or her court duties.



- D. Extensions of time.** The chief judge of the court, or other presiding judicial officer, may extend any of the deadlines set forth in this Chapter for good cause.
- E. Dismissal of claim.** On his or her own initiative or at the request of any party, the chief judge or presiding judicial officer may at any time in the proceedings, dismiss a claim on the grounds that it does not invoke violations of the rights or protections granted under this Plan, is untimely, is unduly repetitive of a previous claim, adverse action, or grievance, is frivolous, or fails to state a claim upon which relief may be granted.
- F. Records.** At the conclusion of formal and informal proceedings under this Plan, all papers, files, and reports will be filed with the court's EDR Coordinator. No papers, files, or reports relating to a dispute will be filed in any employee's personnel folder, except as necessary to implement an official personnel action.

**§ 6. Designation and duties of EDR Coordinator.** The Human Resources Manager is the Court's designated EDR Coordinator, unless the chief judge or unit executive designates otherwise. The duties of the EDR Coordinator include the following:

- A.** to provide information to the court and employees regarding the rights and protections afforded under this Plan;
- B.** to coordinate and organize the procedures and establish and maintain official files of the court pertaining to claims and other matters initiated and processed under the court's employment dispute resolution plan;
- C.** to coordinate the counseling of individuals in the initial stages of the claims process, in accordance with Section 8 of this Chapter; and
- D.** to collect, analyze, and consolidate statistical data and other information pertaining to the Court's EDR and EEO program.

**§ 7. Disqualification.** Any party may seek to disqualify a judicial officer, employee, or other person involved in a dispute under this Plan by submitting a written request to the EDR Coordinator, with a copy to the chief judge and unit executive, within 15 days of the initiation of the specific dispute resolution procedure (*e.g.*, request for counseling, mediation, etc.) that is currently under review. The request shall succinctly set forth the factual basis for disqualification and be ruled upon by the chief judge. The chief judge's decision regarding disqualification is final. If the chief judge is the subject of the disqualification request, such request shall be directed to, and finally decided by, the next most senior active judicial officer of the Court.

## **§ 8. Counseling**

- A. Initiating a proceeding; formal request for counseling.** An employee who believes that his or her rights under Chapters II through VIII of this Plan have been violated must first request counseling.

**B. Form and manner of requests.** Requests for counseling:

1. are to be submitted to the EDR Coordinator;
2. must be made in writing and contain all the violations asserted by the claimant; and
3. must be made within 30 days of the alleged violation or within 30 days of the time the employee becomes aware of the alleged violation.

**C. Procedures**

1. **Who may serve as counselor?** The counseling shall be conducted by the EDR Coordinator, unless the EDR Coordinator is disqualified from serving as counselor under Section 7 of this Chapter, or is otherwise unavailable. In such instances, the chief judge or unit executive shall designate another qualified individual to perform the counseling function. The EDR Coordinator shall promptly provide a copy of the request for counseling to the unit executive and the chief judge.
2. **Purposes of counseling.** The purposes of the counseling shall be to discuss the employee's concerns and elicit information regarding the matter which the employee believes constitutes a violation; to advise the employee of his or her rights and responsibilities and the procedures of the court applicable to the employment dispute resolution process; to evaluate the matter; and to assist the employee in achieving an early resolution of the matter, if possible.
3. **Confidentiality.** The court or employing office shall protect the confidentiality of allegations filed under this Plan to the extent possible. However, information about allegations filed under this Plan shall be shared on a need-to-know basis. Records relating to violations under this Plan shall be kept confidential on the same basis.
4. **Form of settlement.** The EDR Coordinator shall reduce to writing any settlement achieved during the counseling process and secure the signatures of the employee, his or her representative, if any, and the member of the employing office who is authorized to enter into settlement on the employing office's behalf.

**D. Duration of counseling period.** The period for counseling shall be 30 days (or a shorter period if counseling is concluded at an earlier date), beginning on the date that the request for counseling is received by the EDR Coordinator.

**E. Conclusion of the counseling period and notice.** The EDR Coordinator shall notify the employee in writing of the end of the counseling period. As part of the notice, the EDR Coordinator shall inform the employee of the right and obligation, should the



employee choose to pursue his or her claim, to file with the EDR Coordinator a request for mediation in accordance with Section 9 of this Chapter.

## **§ 9. Mediation**

**A. Initiation.** Within 15 days after receipt by the employee of the notice of the conclusion of the counseling period, the employee may file with the EDR Coordinator a request for mediation. The request must be made in writing and must state the claim(s) presented. The EDR Coordinator shall promptly provide a copy of the request for mediation to the unit executive and the chief judge. Failure to pursue mediation will preclude further processing of the employee's claim under any other provisions of this Chapter.

### **B. Procedures**

- 1. Designation of mediator.** As soon as possible after receiving the request for mediation, the chief judge or EDR Coordinator shall designate a mediator and provide written notice of such designation.
- 2. Who may serve as mediator.** Any person with the skills to assist in resolving disputes, except the court's EDR Coordinator, may serve as a mediator under this Plan.
- 3. Purpose of mediation.** The mediator shall meet separately and/or jointly with the employee and his or her representative, if any, and the employing office to discuss alternatives for resolving a dispute, including any and all possibilities of reaching a voluntary, mutually satisfactory resolution.
- 4. Confidentiality.** Any person or party involved in the mediation process shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the mediation process, except as necessary to consult with the parties or their representatives, and then only with notice to all parties.
- 5. Form of settlement.** The mediator shall reduce to writing any settlement achieved during the mediation process and secure the signature of the employee, his or her representative, if any, and the member of the employing office who is authorized to enter into settlement on the employing office's behalf.

**C. Duration of mediation period.** The mediation period shall be 30 days (or a shorter period if mediation is concluded at an earlier date), beginning on the date the request for mediation is received. The employee is required to attend at least one mediation session. Thereafter, he or she may proceed to file a request for hearing.

- D. Conclusion of mediation period and notice.** If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the EDR Coordinator shall provide the employee, the employee's representative, if any, and the employing office with written notice that the mediation period has concluded. The notice shall also inform the employee of his or her right to file a complaint under Section 10 of this Chapter.

## **§ 10. Complaint and hearing**

- A. Complaint.** Not later than 15 days after receiving notice of the end of the mediation period, an employee may file a complaint under procedures established by the court. The complaint shall be in writing, shall identify the complainant and all involved parties and individuals, and shall set forth a short and plain statement of the complainant's claim and the relief or remedy being sought. Claims that were not presented in § 9(A) may not be pursued. The respondent shall be the employing office which would be responsible for redressing, correcting or abating the violation(s) alleged in the complaint. No individual shall be named as a respondent in the complaint.

### **B. Hearing procedures**

- 1. Hearing officer.** If the chief judge or presiding judicial officer does not dismiss the complaint, the chief judge or presiding judicial officer shall hold a hearing on the merits of the complaint unless he or she determines that no material factual dispute exists.
- 2. Specific provisions.** The presiding judicial officer may provide for such discovery and investigation as is necessary. In general, the presiding judicial officer shall determine the time, place, and manner of conducting the hearing. However, the following specific provisions shall apply to hearings conducted under this Section:
  - a.** the hearing shall be commenced no later than 60 days after the filing of the complaint;
  - b.** the complainant and the head of the office against which the complaint has been filed must receive written notice of the hearing; such notice shall also be provided to the individual alleged to have violated rights protected by this Plan;
  - c.** at the hearing, the complainant will have the right to representation, to present evidence on his or her behalf, and to cross-examine adverse witnesses; the employing office will have the right to present evidence on its behalf and to cross-examine adverse witnesses;
  - d.** a verbatim record of the hearing must be kept and shall be the sole official record of the proceeding;



e. in reaching his or her decision, the chief judge or presiding judicial officer shall be guided by judicial and administrative decisions under the laws related to Chapters II through VIII of this Plan and by decisions of the judicial council of the appropriate circuit under Section 11 of this Chapter;

f. remedies may be provided in accordance with Section 12 of this Chapter where the hearing officer finds that the complainant has established by a preponderance of the evidence that a substantive right protected by this Plan has been violated;

g. the final decision of the chief judge or presiding judicial officer must be issued in writing not later than 30 days after the conclusion of the hearing; and

h. all parties, or any aggrieved individual, shall have the right to written notice of any action taken as a result of a hearing.

**§ 11. Review of decision.** A party or individual aggrieved by a final decision of the chief judge or presiding judicial officer, or by a summary dismissal of the complaint, may petition for review of that decision under procedures established by the Second Circuit Judicial Council. Any review will be conducted by a judicial officer(s), based on the record created by the hearing officer, and shall be affirmed if supported by substantial evidence. The determination of the panel is not subject to further review. The procedures established by the Second Circuit Judicial Council for review of final decisions are incorporated herein by reference and are attached hereto as Appendix I.

## **§ 12. Remedies**

A. Where judicial officers acting pursuant to section 10 or 11 of this Plan find that a substantive right protected by this Plan has been violated, they may order a necessary and appropriate remedy. A remedy may be directed at correcting a past violation, prospectively ensuring compliance with the rights protected by this Plan, or both. A remedy shall be tailored as closely as possible to the specific violation involved. Where a complainant establishes that a substantive right protected by the court's EDR Plan has been violated, a determination as to which remedy would be most appropriate will be made on a case by case basis as some remedies may not be available and/or applicable to both chambers and non-chambers staffs.

B. Remedies which may be provided to successful complainants under this Plan include, but are not limited to:

1. placement of an employee in a position previously denied;
2. placement in a comparable alternative position;
3. reinstatement to a position from which the employee was previously removed;

4. prospective promotion to a position;
5. priority consideration for a future promotion or position;
6. back pay and associated benefits, including attorney's fees, where the statutory criteria of the Back Pay Act, 5 U.S.C. § 5596, are satisfied;
7. records modification and/or expungement;
8. "equitable" relief, such as temporary stays of adverse actions;
9. granting of family and medical leave; and
10. accommodation of disabilities through the purchase of specialized equipment or the restructuring of duties and work hours, or other appropriate means.

C. Remedies which are *not* legally available include:

1. payment of attorney's fees (except as authorized under the Back Pay Act);
2. compensatory damages; and
3. punitive damages.

**§ 13. Record of final decisions.** Final decisions under this Plan shall be made available to the public upon written request to the chief judge of the court through the EDR Coordinator. Any such decision that is made available to the public shall be made available without disclosure of identifying information as to any party or individual, including the names of the complainant, the respondent, and the person alleged to have violated the complainant's rights.



## APPENDIX I

### SECOND CIRCUIT JUDICIAL COUNCIL

#### PETITIONS FOR REVIEW OF FINAL DECISIONS FROM THE COURT OF APPEALS, DISTRICT and BANKRUPTCY COURTS, PROBATION and PRETRIAL SERVICES OF EMPLOYEE DISPUTE RESOLUTION COMPLAINTS

Adopted: December 14, 2011

**A. Preamble.** These rules are adopted under Section 11 of the Federal Judiciary Model Employment Dispute Resolution Plan ("Model EDR Plan"). The definitions contained in the Model EDR Plan are incorporated herein.

**B. Petitions for Review.** A party or individual aggrieved by a final decision of the chief district judge or presiding judicial officer, or by a summary dismissal of the complaint, may petition for review to the Second Circuit Judicial Council. A panel of no fewer than five members of the Judicial Council conducts the review. The review is based on the record created by the hearing officer. The panel must affirm the decision if supported by substantial evidence. The determination of the panel is not subject to further review.

**C. When to file; Form; Where to file.** A petition for review must be filed in the Office of the Circuit Executive within 30 days after entry of the final decision or summary dismissal. A claim that was not presented in the complaint may not be pursued in the petition for review. Petitioner shall utilize the attached Petition for Review Form.

**D. Response.** Within 21 days after the filing of the petition for review (or any later corrected petition for review), a response may be filed with the Office of the Circuit Executive, addressing only the specific claims raised in the petition.

**E. Receipt and Distribution of Petition and Response.** The Circuit Executive will acknowledge receipt of a timely petition or response, and send a copy to the opposing party.

**F. Untimely Filing.** The Circuit Executive must refuse to accept a petition or response that is received after the applicable deadline in (B) or (C).

**G. Timely Filing not in Proper Form.** If a timely petition or response is not in a form that would allow useful consideration by the Judicial Council, the Circuit Executive will advise the filer to correct the deficiencies within 14 days; otherwise the petition or response will be rejected.

**H. Notice of the Panel's Decision.** The Circuit Executive will promptly distribute a copy of the panel's decision to the petitioner, the respondent, and the hearing officer. The panel may also instruct the Circuit Executive to provide a copy to the Judicial Conference Committee on Judicial Conduct and Disability.

**I. Public Availability of the Panel's Decision.** When final action has been taken on a petition, all orders entered by the panel may be made public, without disclosure (however) of identifying information as to any party or individual, including the names of the complainant, the respondent, and the person alleged to have violated the complainant's rights.

## PETITION FOR REVIEW FORM

Please attach additional pages, not to exceed five pages, if you require more space for any response. Be sure to indicate the question you are answering.

This form is three pages and requires your dated signature.

If you filed the underlying complaint, please be sure to attach:

- A). Copies of your Request for Counseling, Request for Mediation, Request for a hearing, the notices of conclusion pertaining to each, the mediation report, and the hearing officer's final decision on the complaint.
- B). Any additional documents which you feel relate to this appeal, for example, portions of the record on any hearing on the complaint.

If you did not file the underlying complaint, please attach only the last two items in paragraph A and any items that apply under paragraph B.

1. Full Name, Job Title & Phone:

Click here to enter text.

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2. State whether you filed the original complaint in this dispute or responded to it:

Click here to enter text.

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3. Provide the date on which the hearing officer's final decision was issued:

Click here to enter text.

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4. Name of person who represented you, if any, during any part of this dispute:

Click here to enter text.

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5. Please summarize the basis for your appeal. Explain in what way you believe the hearing officer's final decision is incorrect.

Click here to enter text.

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6. State the corrective action you seek:

Click here to enter text.

7. Do you have an attorney or another person who represents you in connection with this appeal?

☐ Yes

☐ No

If yes, please provide the following information about your representative:

Name: Click here to enter text.

Employer: Click here to enter text.

Job Title: Click here to enter text.

Phone: Click here to enter text.

I swear or affirm that the information provided in this appeal is true and correct to the best of my knowledge.

Click here to enter text.

Your signature

Click here to enter a date.

Date submitted

Office of the Circuit Executive:

Click here to enter text.

Office of the Circuit Executive's signature

Click here to enter a date.

Date submitted