MIDDLE DISTRICT OF GEORGIA
EMPLOYMENT DISPUTE RESOLUTION PLAN

I. INTRODUCTION

The Federal Judiciary is committed to the performance of its duties in an outstanding and efficient manner and to maintaining a workplace of respect, fairness, tolerance, and dignity that is free of discrimination and harassment. These values are essential to the Judiciary, which holds its judges and employees to the highest standards. All judges and employees are expected to treat each other accordingly.

This Employment Dispute Resolution Plan ("EDR Plan") identifies specific types of wrongful conduct in the workplace that are actionable under the Plan, including discrimination and harassment based on a protected category, abusive conduct, and retaliation against an employee based on the employee's exercise of protected conduct. The Plan provides options for the reporting and resolution of allegations of wrongful conduct. Early action is the best way to maintain a professional, respectful, and safe work environment. All judges, employing offices, and employees should take appropriate action upon receipt of reliable information indicating a likelihood of wrongful conduct under this Plan. *See* Code of Conduct for Judicial Employees, Canon 3(C).

Current and former employees may seek relief under this Plan. The term "employee" includes law clerks; chambers employees; paid and unpaid interns, externs, and other volunteers; and probation and pretrial services employees, as well as applicants for employment who have been interviewed. The following persons cannot seek relief under this Plan: judges, applicants for judicial appointment, Criminal Justice Act panel attorneys and applicants, outside investigators, service providers, community defender employees, volunteer mediators, and any person not identified above as an employee.

This Plan establishes rights of employees, as that term is defined in Appendix 1, of the Middle District of Georgia's United States District Court, United States Bankruptcy Court, and United States Probation and Pretrial Services Office. All provisions of this Plan should be interpreted from the perspective of a reasonably prudent person.

Any employee may file both a complaint under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364, and a claim under this Plan. Likewise, prior to the filing of a claim under this Plan, an employee may pursue a grievance under their court unit's Grievance Policy, if applicable, or a request for administrative review under their court's Adverse Action Plan. When a Formal Complaint and an Adverse Action claim are pending at the same time, the Presiding Judicial Officer shall determine whether one of these actions shall be stayed pending resolution of the other action. An employee, however, may not pursue both a claim under the Adverse Action Plan and a Request for Assisted Resolution.

The proceedings under this Plan do not establish individual liability for any person involved in the proceedings.

On its effective date, this Plan supersedes the EDR Plan previously adopted by this Court. Any claim pending under the previous EDR Plan on the effective date of this Plan shall continue to be processed and considered under the procedures established under the EDR Plan in effect at the time it was filed. This Plan provides the exclusive remedy for Judiciary employees relating to employment rights covered by this Plan.

II. WRONGFUL CONDUCT

A. This Plan prohibits wrongful conduct that occurs during or arises out of an employee's period of employment and wrongful conduct for an applicant for employment who has been interviewed for the position in question. The term "employee" refers to a member of either group.

B. Wrongful conduct includes conduct that would violate the following laws as applied to the Judiciary by Judicial Conference policy: Title VII, Civil Rights Act of 1964; Age Discrimination in Employment Act of 1967; Americans with Disabilities act of 1990 and the Rehabilitation Act of 1973; Family and Medical Leave Act of 1993; Whistleblower Protection Provision; Uniformed Services Employment and Reemployment Rights Act of 1994; Worker Adjustment and Retraining Notification Act; Occupational Safety and Health Act; and Employee Polygraph Protection Act of 1988. *See Guide*, Vol. 12, Ch. 2. Wrongful conduct also includes abusive conduct, as that term is defined in Appendix 1.

C. In particular, as further defined in Appendix 1, wrongful conduct includes:

1. A discriminatory adverse employment action against an employee based on a protected category that is set out in the above-listed statutes or otherwise in this Plan;

2. Harassment of an employee based on a protected category that is set out in the above statutes or otherwise in this Plan;

3. Retaliation based on an employee's exercise of rights under this Plan;

4. Abusive conduct; and

5. Actions that would violate the above statutes.

D. The provisions of this Plan shall not be construed as modifying or reducing qualification standards for employment that have been or may hereafter be established by the Judicial Conference. There are no positions for which race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age (except as indicated elsewhere in this Plan), or any combination of such factors, is an occupational qualification.

E. Efforts to accomplish the legitimate and worthy objectives of nondiscrimination must not infringe upon the principles of equal employment opportunity stated in this Plan. Special recruitment efforts may properly be directed towards qualified individuals in unrepresented or under-represented segments of the available labor force, provided, however, that no such efforts should imply that qualified persons from other segments of the available labor force are disqualified or in any way discouraged from also becoming applicants. The provisions of this Plan shall not be construed as calling for employment or promotion to a position for which the individual is not qualified or as providing anyone with entitlement to preferential treatment based on race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age, or disability.

F. Each employee of the court is and will continue to be an "AT-WILL" employee, unless otherwise provided by law.

G. Special Provision Relating to Disability. Probation and pretrial services officers must meet all fitness-for-duty standards, and requiring compliance with such standards does not, in and of itself, constitute discrimination on the basis of disability.

H. Special Provision Relating to Age. The provisions of this Plan relating to age are subject to special provisions of law and regulations approved by the Judicial Conference with respect to the maximum age at initial hiring of probation and pretrial services officers and officer assistants and to mandatory retirement ages for such persons.

I. Special Provision Relating to Pregnancy and Leave. Notwithstanding the prohibition on discrimination based on pregnancy, any leave requested by an employee based on pregnancy is subject to the particular leave policy which is applicable to that employee.

III. REPORTING WRONGFUL CONDUCT

The Judiciary encourages the reporting of wrongful conduct to officials who are empowered to remedy that conduct in order that prompt action can be taken. Employees who experience or are aware of wrongful conduct in violation of this Plan are encouraged to take appropriate action, including reporting this wrongful conduct to a supervisor, human resources professional, unit executive, Employment Dispute Resolution ("EDR") Coordinator, Chief Judge, Chief Circuit Judge, Circuit Director of Workplace Relations, or to the national Office of Judicial Integrity. *See* Code of Conduct for Judicial Employees, Canon 3(C). Employees are also encouraged to report wrongful conduct in the workplace by non-employees. Court and chambers' confidentiality requirements do not prevent any employee—including law clerks—from revealing or reporting wrongful conduct by any person. In addition, supervisors, unit executives, and judges should take appropriate action when they learn of reliable information of wrongful conduct, which action may include informing the appropriate Chief Judge.

IV. OPTIONS FOR RESOLUTION

The Judiciary's goal is to promptly address wrongful conduct in the workplace. There are various options under the Plan for an employee to resolve such a

problem. Sometimes an employee will believe that resolution can be better achieved outside the provisions of this Plan, through informal efforts. For example, if comfortable doing so, an employee is always free to address a conduct issue directly with the person who allegedly engaged in wrongful conduct. Likewise, an employee may wish to discuss the problem with the employee's or alleged wrongdoer's supervisor or other court official in an effort to resolve the matter informally. In addition, if an employee is not yet prepared to take formal action but wishes to obtain confidential advice, the Plan allows for such advice under its Informal Advice provision. A more formal step, short of filing a Formal Complaint, is a Request for Assisted Resolution. Finally, an employee may file a Formal Complaint to address the particular claim of wrongdoing.

Nevertheless, conversations with supervisors, the seeking of Informal Advice, or participation in Assisted Resolution will not automatically extend the time period within which a Formal Complaint claiming wrongful conduct must be filed, and an employee may file a Formal Complaint without having gone through more informal routes. Further, the failure to successfully resolve an instance of wrongful conduct informally or via Assisted Resolution will not bar the filing of a Complaint under this Plan, except that an employee may not file a Complaint alleging abusive conduct without having first sought relief under Assisted Resolution.

A. Plan Options. This Plan provides three options to address wrongful conduct, as explained in detail below:

1. Informal Advice
2. Assisted Resolution
3. Formal Complaint

B. General Provisions and Protections. The three options under the Plan—Informal Advice, Assisted Resolution, and Formal Complaint—are intended to respect the privacy of all involved to the greatest extent possible, and to protect the fairness and thoroughness of the process by which allegations of wrongful conduct are initiated, investigated, and ultimately resolved. Except as otherwise provided, these rights apply to all parties.

1. **Confidentiality**. Court officials administering the processes covered by this Plan should protect the confidentiality of those processes to the greatest extent possible and should share information only to the extent necessary to determine the appropriate resolution of a claim. An assurance of confidentiality cannot be honored when there is reliable information of wrongful conduct that threatens the safety or security of any person or that is serious or egregious enough to threaten the integrity of the Judiciary. The EDR Coordinator should inform any employee seeking information concerning these EDR processes about the confidentiality provisions of the Plan.

   Confidentiality obligations set out in the Code of Conduct for Judicial Employees concerning use or disclosure of confidential information received in the course of official duties do not prevent nor should they discourage employees from reporting or disclosing wrongful conduct by a judge, supervisor, or other person.

2. **Impartiality**. All investigations, hearings, and other processes under this Plan must be conducted in a thorough, fair, and impartial manner. Those administering the processes set out in this Plan must be impartial and may not act as an advocate for any party. The EDR Coordinator or Presiding Judicial Officer should recuse if he or she participated in, witnessed, or was otherwise involved with the conduct or employment action giving rise to the claim in a manner that would undermine the individual's ability to fairly address the claim. Recusal of these individuals is also required if the matter creates an actual conflict or the reasonable appearance of a conflict.

   If good cause exists, a party may seek disqualification of the EDR Coordinator or Presiding Judicial Officer by written request to the Chief Judge or, if the Chief Judge is the Presiding Judicial Officer whose disqualification is sought, the Chief Circuit Judge. If the Chief Circuit Judge is the Presiding Judicial Officer, a disqualification request should be sent to the next most senior judge. Such written request shall specify why the individual should be disqualified.

If the Presiding Judicial Officer is disqualified, the individual empowered to make the disqualification decision will designate another judge to serve as Presiding Judicial Officer. If the Chief Judge is disqualified, or is unavailable to serve, the next most senior judge shall designate the Presiding Judicial Officer. If the EDR Coordinator is disqualified, the Chief Judge will appoint one of the court's other EDR Coordinators or an EDR Coordinator from another court (with the consent of the respective Chief Judge of that court). The Circuit Director of Workplace Relations can provide assistance in such a case.

3. **Right to Representation**. An individual invoking the dispute resolution procedures of this Plan or an individual who has allegedly engaged in wrongful conduct has the right to be represented by an attorney at his or her own expense.

4. **Interim Relief**. In his or her discretion, the unit executive or Presiding Judicial Officer may consider whether appropriate interim relief is necessary, including, but not limited to, transfer, alternate work arrangements, or administrative leave.

5. **Allegations Regarding a Judge**. An employee who alleges that a judge has engaged in wrongful conduct may use any of the options for resolution as set forth in § IV.C. An employee may also file a complaint under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364.

6. **Case Preparation**. It is expected that employees involved in or affected by a dispute resolution process will continue to perform the duties of their jobs. To the extent that some preparation or interviewing of witnesses by a party must occur during official duty hours, the person seeking to so utilize these duty hours shall apply, in writing, to the appropriate EDR decision-maker for authorization to use official time to prepare his or her case, specifying the amount of time sought and the general functions to which that time will be devoted. If the allegations of wrongful conduct are being made

through the Assisted Resolution processes, this determination shall be made by the EDR Coordinator or Circuit Director of Workplace Relations overseeing Assisted Resolution. If the allegations of wrongful conduct are being made through the Formal Complaint process, the decision-maker shall be the Presiding Judicial Officer. The decision-maker shall coordinate with the unit executive under whom the employee works prior to making a decision on the request. The determination of the decision-maker shall be final and not subject to further review, nor may the decision itself be the subject of a proceeding under this Plan. The unit executive who is responding to the claimant's allegations is not required to request permission to utilize duty hours for that purpose.

7. **Extensions of Time**. Prior to the appointment of a Presiding Judicial Officer, the Chief Judge of the court in which an employee dispute has arisen may extend any deadlines in this Plan for good cause. When a Complaint has been filed alleging wrongdoing by a judge, the Chief Circuit Judge may likewise extend deadlines prior to the appointment of a Presiding Judicial Officer. Once a Presiding Judicial Officer is appointed, the power to extend deadlines for good cause rests with that Officer. The Chief Circuit Judge has the authority to extend all deadlines in the Request for Review of Decision process. Deadlines can be extended *sua sponte* or after consideration of a written request submitted by a party.

8. **Dismissal of Claim**. At the request of any party, on the recommendation of the EDR Coordinator or Circuit Director of Workplace Relations, or on his or her own initiative, the Chief Judge or the Presiding Judicial Officer may at any time in the proceedings dismiss in writing a claim made in a Complaint on the grounds that it does not invoke violations of the rights or protections granted under this Plan, is plainly without merit, is untimely, is repetitive of a previously resolved Complaint, is frivolous, or fails to state a claim upon which relief may be granted.

9. Records. At the conclusion of proceedings under this Plan, all papers, files, transcripts, and reports will be filed with the court's primary EDR Coordinator, who will preserve the records as directed in the *Guide to Judiciary Policy*. No papers, files, transcripts, or reports relating to a dispute will be filed in any employee's personnel folder except as necessary to implement an official personnel action.

C. Specific Options

1. Informal Advice. An employee may contact an EDR Coordinator, Circuit Director of Workplace Relations, or the national Office of Judicial Integrity for confidential advice and guidance (*see* § IV.B.1) about a range of topics including:

- the rights and protections afforded under this Plan, the Judicial Conduct and Disability Act, and any other processes;
- ways to respond to wrongful conduct as it is happening; and/or
- options for addressing the conduct, such as informal resolution, participating in Assisted Resolution, or pursuing a Formal Complaint under this Plan, the Judicial Conduct and Disability Act, or any other processes.

2. Assisted Resolution.

a. Assisted Resolution is an interactive, flexible process that may include, for example:

- discussing the matter with the person whose behavior is of concern, with the assistance of the EDR Coordinator or the Circuit Director of Workplace Relations;
- conducting a preliminary investigation, including interviewing persons alleged to have violated rights under this Plan and witnesses to the alleged conduct;
- engaging in voluntary mediation between the persons involved; and/or

- resolving the matter by agreement.

b. To pursue this option, an employee must submit to any of their court's EDR Coordinators or to the Circuit Director of Workplace Relations completed "Request for Assisted Resolution" (Appendix 2) and "Contact Information" (Appendix 8) forms. **An employee asserting any claim of abusive conduct must first use Assisted Resolution before filing a Formal Complaint.** Filing a Request for Assisted Resolution does not toll (extend) the time for filing a Formal Complaint under § IV.C.3 unless the Chief Judge or Presiding Judicial Officer grants an extension of time for good cause, as permitted in § IV.C.3.a.

c. If the allegations concern the conduct of a judge, the Chief Judge of the appropriate district, bankruptcy, or circuit court must be notified and will be responsible for coordinating any Assisted Resolution and/or taking any other action required or appropriate under the circumstances. If the allegations concern the conduct of a Chief Judge, the next most senior active judge must be notified and will be responsible for coordinating any Assisted Resolution and/or taking any other action required or appropriate under the circumstances. *See, e.g.*, Rules for Judicial-Conduct and Judicial-Disability Proceedings.

d. If the allegations do not concern the conduct of a judge, the EDR Coordinator or Circuit Director of Workplace Relations will oversee Assisted Resolution and must notify the appropriate unit executive, who will represent the position of the employing office in the Assisted Resolution process, assess the allegation(s), and take appropriate steps to resolve the matter. The Chief Judge may designate a person other than the unit executive to represent the employing office if the Chief Judge deems that to be appropriate.

e. The Chief Judge, EDR Coordinator, or Circuit Director of Workplace Relations responsible for overseeing Assisted Resolution, as indicated in (c) and (d) above, may deny the Request for Assisted Resolution at any time if he or she concludes it is frivolous; it does not allege violations of the rights or protections in this Plan; the alleged conduct arises out of the same facts and circumstances and was resolved by a previous EDR Complaint or other claim process or procedure; or on other appropriate grounds.

f. If Assisted Resolution is successful in resolving the matter, the employee who sought Assisted Resolution and the employing office will so acknowledge in writing. The documentation of the resolution must be signed by the employee, the employee's legal counsel, if any, and the member of the employing office who is authorized to resolve the matter on the employing office's behalf. If the resolution of the matter will require the expenditure of any funds from the court's budget (decentralized funds) or from the Administrative Office's budget (centralized funds), approval of the Chief Judge shall also be required.

g. By mutual assent, the employee who sought Assisted Resolution and the employing office may agree that the Assisted Resolution process should be concluded. Otherwise, the person overseeing the Assisted Resolution process, in his or her discretion, will determine when to conclude the Assisted Resolution process.

h. If, at the end of the Assisted Resolution process, the employee and the employing office have not resolved the employee's claim that forms the basis of the Request for Assisted Resolution, the person overseeing the Assisted Resolution process shall provide them with written notice that the Assisted Resolution period has concluded. The notice shall also inform the employee of his or her rights to file a Formal Complaint

and/or pursue action under the Judicial Conduct and Disability Act, if applicable, or any other processes.

3. Filing a Formal Complaint. An employee may file a Formal Complaint ("Complaint") with any of the court's EDR Coordinators to address a claim of wrongful conduct.

a. *Form.* To file a Complaint, an employee must submit the "Formal Complaint" (Appendix 3) and "Contact Information" (Appendix 8) forms to any of their court's EDR Coordinators 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. Use of the Informal Advice or Assisted Resolution options does not toll (extend) this 180-day deadline unless the Chief Judge of the court or the Presiding Judicial Officer grants an extension of time for good cause.

b. *Abusive Conduct.* An employee asserting any claim of abusive conduct must first utilize the Assisted Resolution process before filing a Formal Complaint.

c. *Complaints By District Court, Probation, and Bankruptcy Court Employees Alleging Wrongful Conduct by a Non-Judge*. The employee filing the Complaint is called the Complainant. The Respondent is the employing office in which the complaining employee works (or has been interviewed for a position). The unit executive for that employing office will represent the office in the proceedings unless the Chief Judge deems it appropriate to designate a different person to do so.

The district court may include the following unit executives for their respective employing offices: the clerk of court, and the chief probation officer. The unit executive for courtroom deputy clerks is the clerk of court. The unit executive for staff

attorneys or pro se law clerks is the judicial officer, the clerk of court, or other person who is considered the supervisor of that employee.

The bankruptcy court's unit executive is its clerk of court.

A judge is the unit executive for chambers staff.

d. *Complaints Alleging Wrongful Conduct by a Judge*.

A judge is considered to be the employing office for chambers staff and will be the Respondent in any Complaint by chambers staff. A Complaint from a non-chambers employee that accuses a judge of wrongful conduct must name as Respondents both the judge and the employing office of the non-chambers employee.

The EDR Coordinator must immediately provide a copy of a Complaint naming a judge as a Respondent to the judge, to the Chief Circuit Judge (or the next most-senior active circuit judge, if the allegation is against the Chief Circuit Judge), and to the Circuit Director of Workplace Relations. If a district or magistrate judge is named as a Respondent in a Complaint, the EDR Coordinator must provide a copy of the Complaint to the Chief District Judge. If a bankruptcy judge is named as a Respondent, the EDR Coordinator must provide a copy of the Complaint to the Chief Bankruptcy Judge.

If a judge becomes the subject of both a Complaint under this Plan and a complaint under the Judicial Conduct and Disability Act, the Chief Circuit Judge will determine the appropriate procedure for coordinating the adjudication of both complaints, which may include holding one claim in abeyance while adjudicating the other claim, subject to all requirements of the Judicial Conduct and Disability Act, the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and, as

practicable, this EDR Plan. The Chief Circuit Judge should consider whether any interim relief is necessary.

4. Formal Complaint Procedures and Procedural Rights

a. *Appointment of Presiding Judicial Officer*. Upon receipt of a Complaint alleging wrongdoing by a non-judge, the EDR Coordinator will immediately send a copy of the Complaint to the Chief Judge of the court and to the Circuit Director of Workplace Relations. The Chief Judge of the court will appoint a judge from within the court at issue as the Presiding Judicial Officer or will request that the Chief Circuit Judge appoint a judge from another court (with the consent of the respective Chief Judge of that court).

If a judge has been named as a Respondent in the Complaint, the Chief Circuit Judge shall determine which member of the Judicial Council, or other judicial officer, will act as the Presiding Judicial Officer.

b. *Disqualification and Replacement*. A party may seek disqualification of the EDR Coordinator or the Presiding Judicial Officer by following the procedure in § IV.B.2.

c. *Parties to the Complaint Proceeding*. The term "party" includes not only the Complainant, but also the employing office and any employee who has allegedly engaged in wrongful conduct against the Complainant. All parties have a right to reasonable notice of the charges and an opportunity to respond.

d. *Docket.* The EDR Coordinator shall maintain a docket of all proceedings after a Complaint has been filed and shall forward that docket to the Circuit Director of Workplace Relations each month.

e. *Response*. The Presiding Judicial Officer shall provide a copy of the Complaint to the employing office at issue. Unless the Chief Judge of the court has determined that another person should represent the employing office, it is the unit executive for the employing office who shall represent that office and who shall file a response to the Complaint with the EDR Coordinator within 30 days of receiving the Complaint.

The EDR Coordinator shall immediately send the employing office's response to the Presiding Judicial Officer and to the Complainant.

f. *Notification To Employee Accused of Wrongful Conduct*

The Presiding Judicial Officer will review both the Complaint and the Respondent's Response to determine whether the Complaint alleges that a particular employee(s) other than the Respondent (as represented by the Unit Executive) engaged in wrongful conduct against the Complainant. If, based on that review, the Presiding Judicial Officer is uncertain whether the Complainant intends to accuse the employee(s) of wrongful conduct that would be cognizable under this Plan, the Presiding Judicial Officer may interview the Complainant in order to clarify the allegations. **Any interview must be transcribed**.

Following clarification, through interviews or otherwise, the Presiding Judicial Officer shall provide any employee accused of wrongful conduct with a copy of the Complaint and the Respondent's Response and shall inform the employee(s) of his or her right to respond and participate in the proceedings, if the employee chooses to do so. That response shall be filed by the employee accused of wrongful conduct within 30 days of the date the Complaint and Respondent's Response were sent, and the EDR Coordinator shall immediately send it to the Presiding Judicial Officer and to the other parties.

g. *Investigation and Discovery*. The Presiding Judicial Officer

will ensure that the allegations are thoroughly, impartially, and fairly investigated, and may use outside trained investigators if warranted. The Presiding Judicial Officer will determine what evidence and written arguments, if any, are necessary for a fair and complete assessment of the allegations and response. The Presiding Judicial Officer will direct, to the extent appropriate, any or all of the following: investigation and discovery; interviews; settlement discussions; the filing of written submissions by the parties; and a hearing, if needed. Local funds must be used to pay for any expenses incurred during this process, but any expenditure of funds must be approved by the appropriate Chief Judge. All interviews and any hearing must be transcribed.

h. *Written Decision.* At the conclusion of all proceedings deemed appropriate by the Presiding Judicial Officer, the latter shall issue a written decision, and, if warranted, order appropriate remedies. It is the goal of this Plan that all Complaints be thoroughly and fairly evaluated by the Presiding Judicial Officer. Arbitrary time limits for the adjudication of such Complaints are not consistent with that goal. Nevertheless, the Presiding Judicial Officer shall endeavor to expeditiously process and resolve the Complaint. Further, the EDR Coordinator shall maintain a docket of all proceedings after a Complaint has been filed and shall forward that docket to the Circuit Director of Workplace Relations each month.

i. *Established Precedent*. In reaching a decision, the Presiding Judicial Officer should be guided by Supreme Court and Eleventh Circuit precedent that interprets the statutory counterpart of the alleged wrongful conduct (*e.g.*, Title VII, Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973; the Family and Medical Leave Act of 1993; etc.). Although application of the Federal Rules of Evidence and federal procedural rules is not

mandatory, those rules will likely provide sound guidance in most circumstances and a Presiding Judicial Officer is free to insist on compliance with them to the extent that compliance would not otherwise be at odds with provisions of the EDR Plan. The standard of proof for facts underlying all claims is a preponderance of the evidence standard, which requires proof that, more likely than not, a particular fact is true.

j. *Notice of Written Decision*. The EDR Coordinator or Presiding Judicial Officer shall distribute the written decision as required under Appendix 6. The EDR Coordinator will inform the parties of appeal rights, procedures, and deadlines.

5. Resolution of Complaint Without a Hearing. After notifying the parties of a potential dispositive action and giving them an opportunity to respond, the Presiding Judicial Officer may resolve the matter without a hearing.

a. The Presiding Judicial Officer may dismiss a Complaint at any time in the proceedings on the grounds that: it is untimely filed, is frivolous, fails to state a claim, or does not allege violations of the rights or protections in this Plan; the alleged conduct arises out of the same facts and circumstances, and was resolved by, a previous EDR Complaint; or on other appropriate grounds. Prior to doing so, the Presiding Judicial Officer must notify the parties and give the Complainant an opportunity to show cause why the Complaint should not be dismissed; the Respondent shall be given an opportunity to respond and the Complainant to reply.

b. After completion of investigation and discovery, as well as the transcription of any interviews, the Presiding Judicial Officer may, on his or her own initiative or at the request of a party, issue a proposed written decision if the Presiding Judicial Officer determines that that there is no genuine dispute as to any material fact and that, based on the undisputed facts, either

the Complainant or the Respondent is entitled to judgment as a matter of law without the need for a hearing. The non-prevailing party shall be given 30 days to respond to the proposed decision. The prevailing party shall be given 30 days to reply to that response; the non-prevailing party shall be given 14 days to file a reply.

c. Upon the written approval of the Presiding Judicial Officer and the Chief Judge, the parties may enter into a written settlement. The Chief Judge must approve in writing any settlement that calls for the expenditure of any funds from the court's budget (decentralized funds) or from the Administrative Office's budget (centralized funds).

6. Resolution of Complaint with a Hearing. If the Complaint is not resolved in its entirety by dismissal, a decision without a hearing, or a settlement, the Presiding Judicial Officer will order a hearing on the merits of the Complaint.

a. *Notice*. The Presiding Judicial Officer must provide reasonable notice of the hearing date, time, and place to the Complainant, the Respondent, and any individual(s) alleged to have violated the Complainant's rights.

b. *Right to Present Evidence*. All parties have the right to legal representation, to present evidence, and to examine and cross-examine witnesses. Prior to the hearing, the parties shall be provided with transcriptions of all interviews.

c. *Record of Proceedings*. A verbatim written record of the hearing must be made.

d. *Written Decision*. Following a transcription of all hearing and interview testimony, the Complainant shall be given 30 days to file a pleading setting out the reasons why the Complainant should prevail and receive relief. The employing office and any other party shall be given 30 days to respond to that pleading,

and the Complainant shall be given 14 days to reply. Thereafter, the Presiding Judicial Officer shall issue a written final decision that will include findings of fact and conclusions of law. The final decision shall be distributed as described in Appendix 6. The EDR Coordinator shall inform the parties of appeal rights, procedures, and deadlines.

7. Remedies.

a. When the Presiding Judicial Officer finds that the Complainant has established by a preponderance of the evidence that the employing office has engaged in wrongful conduct against the Complainant, the Presiding Judicial Officer may direct the employing office to provide remedies for the Complainant. The remedies are limited to providing relief to the Complainant, should be tailored as closely as possible to the specific violation(s) found, and should take into consideration the impact on any employing office.

b. A judge's decision in EDR matters must be in conformance with all statutes and regulations that apply to the Judiciary and, in proceedings pursuant to this Plan, neither the Presiding Judicial Officer nor any judicial panel reviewing a final decision has authority to declare such statutes or regulations unconstitutional or invalid. A judge presiding in EDR matters may not compel the participation of, or impose remedies upon, agencies or entities other than the employing office.

c. The Chief Judge and employing office must take appropriate action to carry out the remedies ordered in the written decision, subject to any applicable policies or procedures. The Chief Judge must approve in writing any remedy that will require the expenditure of any funds from the court's budget (decentralized funds) or from the Administrative Office's budget (centralized funds).

i. *Allowable Remedies* may include:

- placement of the Complainant in a position previously denied;
- placement of the Complainant in a comparable alternative position;
- reinstatement to a position from which the Complainant was previously removed;
- prospective promotion of the Complainant;
- priority consideration of the Complainant for a future promotion or position;
- back pay and associated benefits, when the statutory criteria of the Back Pay Act are satisfied;[1]
- records modification and/or expungement;
- granting of family and medical leave;
- any reasonable accommodation(s); and
- any other appropriate remedy to address the wrongful conduct.[2]

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[1] *Back Pay Act*. Remedies under the Back Pay Act, including attorney's fees, may be ordered only when the statutory criteria of the Back Pay Act are satisfied, which include: (1) a finding of an unjustified or unwarranted personnel action; (2) by an appropriate authority; (3) which resulted in the withdrawal or reduction of all or part of the employee's pay, allowances, or differentials. An order of back pay is subject to review and approval by the Director of the Administrative Office of the United States Courts. *See* 5 U.S.C. § 5596(b)(1) and *Guide*, Vol. 12, § 690.

[2] The issue in an EDR Complaint is whether the employing office is responsible for the alleged conduct; it is not an action against any individual. The Presiding Judicial Officer lacks authority to impose disciplinary or similar action against an individual. When there has been a finding of wrongful conduct in an EDR proceeding, an appointing official, or official with delegated authority, should separately assess, in accordance with any applicable policies and procedures, whether further action is necessary to correct and prevent wrongful conduct and promote appropriate workplace behavior, such as:

- requiring counseling or training;
- ordering no contact with the Complainant;
- reassigning or transferring an employee;
- reprimanding the employee who engaged in wrongful conduct;
- issuing a suspension, probation, or demotion of the employee who engaged in wrongful

ii. *Unavailable Remedies*. Other than under the Back Pay Act, monetary damages are not available. The Presiding Judicial Officer may award attorney's fees only if the statutory requirements under the Back Pay Act are satisfied.

V. REVIEW PROCEDURES (APPEAL)

A. Review of decision. A party alleging a procedural or substantive error may seek review of a Presiding Judicial Officer's final decision, as set out below. The standard governing a substantive review of the Presiding Judicial Officer's decision is whether the decision has properly applied legal principles and is supported by substantial evidence.

B. Record. The EDR Coordinator shall be responsible for submitting the complete record of the proceeding to the Circuit Executive for use by the Judicial Council.

C. Time, place, and manner of filing a Request for Review of Decision and Response. Within 30 days of the date of the letter transmitting the final decision of the Presiding Judicial Officer, a party who seeks to appeal the decision may file with the Judicial Council a completed Request for Review of Decision form (Appendix 4), as well as a completed "Contact Information" form (Appendix 8). These forms may be served by an email sent to the EDR Coordinator and the Circuit Director of Workplace Relations. If the party seeking review instead mails the Request for Review, the forms must be received within 30 days of the letter transmitting the final decision. The Chief Circuit Judge or the latter's designee may grant an extension of time for good cause.

1. Receipt of timely petition in proper form. Upon receipt of a timely Request for Review of Decision filed in the form required, the Circuit Executive shall promptly acknowledge receipt of the Request and transmit a copy to the Presiding Judicial Officer and to any party who participated in the proceedings below.

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conduct; and/or

- terminating employment for the employee who engaged in wrongful conduct.

2. Receipt of Request for Review of Decision that is not in proper form or is out of time.

a. Upon receipt of a Request for Review not filed in the form required, the Circuit Executive shall return the Request and explain why it was returned. The party requesting review may refile the corrected Request for Review with the Circuit Executive within 14 days of the date the Request was returned. Failure to file a compliant form within the required period of time will result in dismissal of the Request for Review of Decision, absent a showing of good cause for the failure, as determined by the Chief Circuit Judge.

b. A Request for Review that is not filed with the Circuit Executive within the above-described 30-day deadline may be considered only upon a showing of good cause for the delay, as determined by the Chief Circuit Judge.

3. Other parties shall be allowed 30 days to respond to the Request for Review, and the filer of the Request shall be allowed 14 days to reply to any response. Extensions may be granted by the Chief Circuit Judge or the latter's designee. A response or reply may be filed by emailing the same to the EDR Coordinator and the Circuit Director of Workplace Relations or by mail. If sent by mail, the pleading must be received by the deadline.

D. Evidence. Evidence that was not before the Presiding Judicial Officer will not be considered.

E. Review of Presiding Judicial Officer's Written Decision.

1. Once the time for responses and replies has expired, and the Circuit Director of Workplace Relations has determined that the complete record, including hearing and interview transcripts, has been submitted, the Circuit Executive shall send to the Circuit's EEO Committee, copies of: (1) the original Complaint and any documents filed pertaining to it; (2) the record of proceedings; (3) the final

decision of the Presiding Judicial Officer; (4) the Request for Review, and (5) any response and reply.

2. Neither the Presiding Judicial Officer nor any party should communicate with any member of the EEO Committee or the Judicial Council about the pending matter.

3. The Judicial Council EEO Committee shall consider the entire record and recommend to the Judicial Council whether the decision made by the Presiding Judicial Officer below should be affirmed.

4. A complained-of judge, the Presiding Judicial Officer who entered the decision that determined the matter which is under review by the Council, and the Chief District Judge from the district in which the Complaint arose are disqualified from participating in deliberations or decisions by the Judicial Council.

5. The Circuit Executive shall transmit to all Judicial Council non-disqualified members the Committee's recommendation along with a ballot that asks (a) whether the Judicial Council member recuses himself or herself from participating in the consideration of the Request, (b) whether the decision of the Presiding Judicial Officer below should be affirmed or reversed, or (c) whether the Judicial Council should discuss the Request for Review. A member's ballot should be submitted within 21 days of transmittal of the EEO Committee's recommendation.

6. A non-disqualified member of the Council who votes to discuss the Request shall submit a memo indicating why the judge believes discussion would be helpful. Any other member who wishes to discuss the matter shall do so via memorandum within 14 days thereafter. Following the final submission on the matter, the Judicial Council will be re-polled.

F. Decision by Judicial Council.

1. The Judicial Council may enter an order (a) affirming the Presiding Judicial Officer's decision; (b) reversing that decision; (c) remanding

for further investigation or findings; or (d) directing additional corrective action, including remedies set forth in § IV.C.7. of this Plan. The Judicial Council may also take any other action within its authority pursuant to 28 U.S.C. §§ 332, 351-364.

2. The order of the Judicial Council may be accompanied by a separate memorandum setting forth the conclusions reached by the Judicial Council. The order shall be accompanied by any separate or dissenting statements by members of the Council.

3. The Circuit Director of Workplace Relations shall distribute the final decision as described in Appendix 6 and shall inform the parties that the Council's decision is final.

4. The Circuit Executive shall transmit a copy of the order to the Chief Circuit Judge and maintain a summary record that clearly identifies the nature of the proceeding and the disposition reached.

G. Withdrawal of Request for Review. A party may withdraw a Request for Review at any time before the Judicial Council acts on the Request; thereafter, the Request may be withdrawn only with the approval of the Judicial Council.

H. Finality. The decision of the Judicial Council is final and not subject to further review.

VI. COURT AND EMPLOYING OFFICE OBLIGATIONS

To ensure that employees are aware of the options provided by this Plan, and that the Plan is effectively implemented, courts and employing offices must adhere to the following:

A. Adopt and Implement EDR Plan. Each court of the Eleventh Circuit shall adopt and implement a plan based upon this Plan. Courts may join with others to adopt consolidated EDR Plans. For example, a district and bankruptcy court in the same district may wish to adopt a consolidated EDR Plan. Any modification of this Plan by a court must first be approved by the Judicial Council of the Eleventh Circuit. The Judicial Council delegates to

the Circuit Executive the authority to approve on its behalf any non-substantive modifications. A copy of each EDR Plan and any subsequent modifications must be filed with the Administrative Office.

B. Records. At the conclusion of informal or formal proceedings under this Plan, all papers, files, and reports will be filed with the primary EDR Coordinator, who will preserve the records as directed in the *Guide to Judiciary Policy*. No papers, files, or reports relating to an EDR matter will be filed in any employee's personnel folder, except as necessary to implement an official personnel action.

C. Release of Final Decisions. Final decisions under this Plan will be made available to the public, appropriately redacted, in accordance with the procedures established in Appendix 6 of the Eleventh Circuit Judicial Council Model EDR Plan.

D. EDR Coordinators. The Chief Judge of the court will designate both a primary EDR Coordinator and at least one alternate EDR Coordinator for the court. The Chief Judge of the court may reassign an EDR matter claim to a non-disqualified EDR Coordinator if he or she deems that appropriate under the circumstances, or may utilize an EDR Coordinator from another court, with the approval of the appropriate Chief Judge.

An EDR Coordinator must be an employee who is not a unit executive. A judge may not be an EDR Coordinator. All EDR Coordinators must be trained and certified as deemed appropriate by the court.

The duties of EDR Coordinators shall include the following:

1. providing information to the court and employees regarding the rights and protections afforded under this Plan;

2. coordinating and organizing the procedures and establishing and maintaining official files of the court pertaining to Complaints and other matters initiated and processed under the court's EDR Plan;

3. collecting, analyzing, and consolidating statistical data and other information pertaining to the court's EDR Plan;

4. reporting to the Administrative Office of the United States Courts the information listed in § VI.F.;

5. recommending to the court modifications to this Plan and suggestions for improvement in implementation; and

6. Sending to the Chief Judge of the court for information purposes a copy of any Appendix 2, 3, or 4 form that comes into his or her possession.

The persons serving as EDR Coordinators on the effective date of this Plan shall automatically become the initial EDR Coordinators under this Plan.

E. Advising Employees of their Rights. Courts and employing offices must:

1. **prominently post** on their internal and external main homepages a direct link, labeled "Your Employee Rights and How to Report Wrongful Conduct," to:

- the entire EDR Plan with all Appendices and relevant contact information;
- the Judicial Conduct and Disability Act, the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and the Judicial Conduct and Disability Complaint form; and
- contact information for all of the court's EDR Coordinators, the Circuit Director of Workplace Relations, and the national Office of Judicial Integrity.

2. **prominently display** in every employing office:

- the posters set forth in Appendix 5; and
- an Anti-Discrimination and Anti-Harassment Notice that: (a) states that discrimination or harassment based on race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age (40 years and over), or disability is prohibited; (b) explains that employees can report, resolve, and seek remedies for discrimination, harassment, or other wrongful conduct under the EDR Plan and identifies the appropriate

persons to whom such complaints must be made; (c) identifies the names and contact information of all court EDR Coordinators, the Circuit Director of Workplace Relations, and the national Office of Judicial Integrity; and (d) states where the EDR Plan can be located on the court's website.

3. ensure that each new employee receive an electronic or paper copy of the EDR Plan and acknowledge in writing that he or she has received the Plan; and

4. conduct training for all judges, chambers staff, and employees who have not previously received training, as well as conduct annual training for all judges, chambers staff, and employees to ensure that they are aware of the rights and obligations under the EDR Plan and the options available for reporting wrongful conduct and seeking relief. This requirement can be satisfied by remotely viewing appropriate training materials, as determined by the Circuit Director of Workplace Relations. Moreover, the Chief Judge can offer or require additional training when he or she believes that to be prudent. The Circuit Director of Workplace Relations will advise all chief judges and all EDR Coordinators of training opportunities provided by the Administrative Office of the United States Courts on topics concerning EDR matters, sound management practices, and civility in the workplace.

F. **Reporting.** Each court will provide annually, to the Administrative Office of the United States Courts, data on: (1) the number and types of alleged violations for which Assisted Resolution was requested, and for each matter, whether it was resolved or was also the subject of a Complaint under this Plan or other complaint; (2) the number and type of alleged violations for which Complaints under this Plan were filed; (3) the resolution of each Complaint under this Plan (dismissed or settled prior to a decision, or decided with or without a hearing); and (4) the rights under this Plan that were found by decision to have been violated. Courts and employing offices should also provide any information that may be helpful in identifying the conditions that may have enabled wrongful conduct or prevented its

discovery, and what precautionary or curative steps should be undertaken to prevent its recurrence. The Circuit Executive shall be copied on all of these reports to aid in tracking this data, Circuit-wide. Courts shall submit other reports as requested by the Circuit Director of Workplace Relations.

G. Appendices Attached:

1. Definitions
2. Request for Assisted Resolution Form
3. Formal Complaint Form
4. Request for Review of Decision (Appeal) Form
5. Posters
6. Procedures for Public Disclosure of a Final Decision Resolving an EDR Complaint (attached Eleventh Circuit Judicial Council Model Employment Dispute Resolution Plan procedures)
7. Contact Information Form

This Plan supersedes all prior Equal Employment Opportunity and Employment Dispute Resolution Plans.

Effective date: February 1, 2026

Approved this 21st day of January, 2026

s/ Leslie A. Gardner	s/ Austin E. Carter
Honorable Leslie Abrams Gardner	Honorable Austin E. Carter
Chief United States District Judge	Chief United States Bankruptcy Judge

DEFINITIONS
APPENDIX 1

Abusive Conduct: As defined below, "harassment" is a form of discriminatory action against an employee that is undertaken based on a protected characteristic of that employee, such as race, sex, color, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age (if the employee is 40 years of age or over), or disability. The standard for "abusive conduct" requires the same level of egregious and hostile conduct that would be required to demonstrate harassment, but to prove abusive conduct an employee does not have to prove that the actions in question were taken because of a protected characteristic of the employee. Further, abusive conduct does not include a discriminatory adverse employment action that is based on an employee's protected characteristic.

Like harassment, abusive conduct is a pattern of demonstrably egregious and hostile conduct that creates an abusive work environment. Such an environment occurs when a reasonable person would conclude that the employee's workplace is permeated with intimidation, threatening conduct, ridicule, or insult that is so severe or pervasive as to alter the terms or conditions of employment. Further, the claimant must subjectively perceive the work environment as being abusive.

The Judiciary expects outstanding performance by and hard work from its employees, and it has a long-standing reputation for achieving that level of excellence. Accordingly, abusive conduct does not include communications and actions reasonably related to the supervision of an employee's performance and designed to ensure that employees live up to the high expectations of their positions, including but not limited to: instruction, corrective criticism, and evaluation; performance improvement plans; duty assignments and changes to duty assignments; office organization; progressive discipline; and adverse actions.

Circuit Director of Workplace Relations: A Circuit employee who coordinates workplace conduct issues and the implementation of all court EDR Plans within the Circuit. The Circuit Director of Workplace Relations can provide Informal Advice and Assisted Resolution under any EDR Plan within the Circuit; assist in training the EDR Coordinators within the Circuit; provide or arrange for training throughout the Circuit on workplace conduct issues; and collect and analyze statistical data and

other information relevant to workplace conduct matters. The precise scope of duties will be determined by the Circuit Executive.

Claim/Claimant: A claim is any allegation made under the provisions of this Plan, to include allegations made under the Informal Advice, Assisted Resolution, and Formal Complaint procedures. A claimant is the person making the claim.

Court: The court (court of appeals, district courts, and bankruptcy courts) in which is located the employing office that would be responsible for redressing, correcting, or abating a violation of rights under this EDR Plan. The magistrate court is part of the district court. In the case of disputes involving probation and pretrial services, "court" refers to the appropriate district court.

Chief Judge of the Court: The term "Chief Judge of the court" refers to the Chief Judge of the particular court at issue; that is, either the Chief Circuit Judge, the Chief District Judge, or the Chief Bankruptcy Judge.

Days: Calendar days.

Discriminatory Adverse Employment Action: A discriminatory adverse employment action is an action that is taken based on an employee's protected category and that causes harm to the employee with respect to an identifiable term or condition of employment. Protected categories include race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age (if the employee is 40 years of age or over), disability, or any other protected category identified in the federal statutes listed at II.B. of this Plan. As distinguished from harassment or abusive conduct, a discriminatory adverse employment action occurs when the Respondent takes a tangible employment action that harms the employee. A tangible job action involves a disadvantageous change in an employee's compensations, terms, conditions, or privileges of employment, such as hiring, firing, failing to promote, reassignment, or a decision causing a change in benefits. *See generally Muldrow v. City of St. Louis, Missouri*, 144 S.Ct. 967, 974 (2024); *Vance v. Ball State University*, 570 U.S. 421, 429 (2013); *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742, 761–62 (1998).

EDR Coordinator: A court employee designated by the Chief Judge of the court to coordinate all of the options for resolution provided for in this Plan. A judge or

unit executive cannot serve as an EDR Coordinator. The EDR Coordinator provides confidential advice and guidance if an employee seeks Informal Advice; coordinates the Assisted Resolution process, which may include conducting an investigation; accepts Formal Complaints under this Plan for filing; and assists the Presiding Judicial Officer in Complaint proceedings. The EDR Coordinator maintains and preserves all court files pertaining to matters initiated and processed under this EDR Plan. The EDR Coordinator assists the court in meeting its obligations under this Plan to train and advise employees of their rights under this Plan, as well as to post the Plan as directed.

Employee: All employees of a court, except as provided below. The term "employee" includes unit executives and their staffs; judicial chambers employees; staff law clerks; federal public defenders, bankruptcy administrators, chief probation officers, and chief pretrial services officers and their respective staffs; court reporters appointed by a court; and paid and unpaid interns, externs, and other volunteer employees. The term "employee" also includes applicants for employment who have been interviewed and former employees.

The following persons cannot seek relief under this Plan and thus are not considered employees: judges, applicants for judicial appointment, Criminal Justice Act panel attorneys and applicants, outside investigators, service providers, community defender employees, volunteer mediators, and any other non-employees not specified above. This Plan does not apply to the award of contracts or subcontracts, or to employment decisions made by such contractors or subcontractors.

Employing Office/Unit Executive/Respondent: The employing office is the entity within the court in which a complaining employee works (or has been interviewed for a position). The unit executive is the person who heads the employing office and who will typically be the person most directly involved in or responsible for the employment decisions relating to employees in that office. The employing office will be the Respondent in any Complaint filed by an employee in that employing office, and the unit executive for that office will represent that office during the Complaint process, absent a decision by the chief judge of the court that another person should represent the employing office.

The circuit court includes the following unit executives: the circuit executive, the clerk of court, the senior staff attorney, the circuit librarian, and the chief circuit mediator.

The district court may include the following unit executives: the district court executive, clerk of court, chief probation officer, and chief pretrial services officer. The unit executive for courtroom deputy clerks is the clerk of court. The unit executive for staff attorneys or pro se law clerks is the person who is considered the supervisor of that employee, which will often be a judicial officer or the clerk of court.

The bankruptcy court's unit executive is its clerk of court.

A judge is both the employing office and the unit executive for chambers staff and shall be named as a Respondent for any Complaint filed by a member of chambers staff. If a judge is accused in a Complaint of wrongful conduct under the EDR Plan by a non-chambers staff member, in addition to the latter's unit executive, the judge shall also be named as a Respondent.

Federal public defenders and bankruptcy administrators are the unit executives for their employees, as well as the Respondents in any complaint filed by an employee. Federal public defenders and bankruptcy administrators are subject to the EDR Plan of the Eleventh Circuit, not the EDR Plan of the district in which they work.

Final Decision: See Appendix 6 for the full definition of a "final decision."

Harassment: Harassment (other than "sexual harassment," which is separately described below) means actions taken or comments directed at an employee based on the employee's protected category. Protected categories include race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age (if the employee is 40 years of age or over), disability, or any other protected category identified in the federal statutes listed at II.B. of this Plan. Harassment is a pattern of demonstrably egregious and hostile conduct that creates an abusive work environment. Such an environment occurs when a reasonable person would conclude that the employee's workplace is permeated with intimidation, threatening conduct, ridicule, or insult that is so severe or pervasive as to alter the terms or

conditions of employment. Further, the claimant must subjectively perceive the work environment as being abusive.

Examples of conduct that may give rise to discriminatory harassment: racial slurs and derogatory comments about a person's ethnicity, culture, national origin, age, disability, or sexual orientation.

Discriminatory harassment also includes sexual harassment. Sexual harassment involves:

1. unsolicited and unwelcomed verbal comments, gestures, or physical contact of a sexual nature that a reasonable person would find to be severe or pervasive enough to alter the conditions of employment and create an abusive working environment, or

2. demands, solicitations, offers, invitations, or other inducements for sexual relations between an employee and his or her supervisor, as to which it is explicitly or implicitly indicated that future personnel decisions regarding employment, advancement, evaluation, wages, assignment of duties, or other conditions of employment or advancement might, would, or should, be affected by the existence or continuation of such sexual relations.

Examples of conduct that may give rise to a sexual harassment claim: suggestive or obscene notes, emails, text messages, or other types of communications; sexually degrading comments; display of sexually suggestive objects or images; unwelcome or inappropriate touching or physical contact; unwelcome sexual advances or propositions; inappropriate remarks of a sexual nature; or an employment action that is implicitly or explicitly conditioned on submission to sexual advances.

Judge: A judge appointed under Article III of the Constitution, a United States bankruptcy judge, or a United States magistrate judge.

Office of Judicial Integrity: The office within the Administrative Office of the United States Courts that can provide advice and guidance to employees nationwide about workplace conduct issues, including sexual, racial, and other discriminatory harassment, abusive conduct and other wrongful conduct. Contact information for the Office of Judicial Integrity can be found on JNet and on uscourts.gov.

Parties to Assisted Resolution: The employing office and the employee who sought Assisted Resolution.

Parties to a Complaint: The employing office, the employee who has filed a Formal Complaint, and any employee or judge who has allegedly engaged in wrongful conduct directed toward the employee who has filed a Complaint.

Protected Category: Race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age (40 years and over),[1] disability, or any other protected category identified in the federal statutes listed at II.B. of this Plan.

Respondent: See definition for "Employing Office/Unit Executive/Respondent."

Retaliation: Retaliation refers to a materially adverse action taken against an employee for opposing, reporting, or asserting a claim of wrongful conduct under this Plan, or for testifying, assisting, or participating in an investigation or proceeding concerning such a claim. Retaliation is itself wrongful conduct. A materially adverse action is one that well might have dissuaded a reasonable worker from making or supporting a charge of discrimination or other wrongful conduct. *See Burlington Northern & Santa Fe Railway Co. v. White*, 548 U.S. 53, 68 (2006).

Unit Executive: See definition for "Employing Office/Unit Executive/Respondent."

[1] The age discrimination provision does not apply to hiring, retirement, or separation of probation and pretrial services officers under 5 U.S.C. chapters 83 and 84.

REQUEST FOR ASSISTED RESOLUTION
APPENDIX 2

USE OF ASSISTED RESOLUTION DOES NOT EXTEND THE 180-DAY DEADLINE TO FILE A FORMAL COMPLAINT UNLESS THE DEADLINE IS EXTENDED UNDER EDR PLAN § IV.C.3.a

Submitted under the Procedures of the _____ Employment Dispute Resolution Plan

1. Court, Federal Public Defender's Office, or Bankruptcy Administrator's Office in which you work or with which you interviewed:

   _____

2. Your name: _____

3. Name of your Employing Office and your position (e.g., Clerk's Office, Docketing Clerk). If an applicant for employment, so indicate and indicate the date of your interview).

   _____

4. Address of the above Employing Office:

   _____

5. Date(s) of alleged incident(s) for which you seek Assisted Resolution:

   _____

6. Explanation of Claim(s): Set out in a brief, several-sentence long narrative below the actions that you allege to have constituted wrongful conduct and for which you seek relief. Please attach additional pages for a more detailed description, but this section must contain a brief narrative.

   _____

7. Identify, and provide contact information for, any persons who were involved in this matter, who were witnesses to the actions or occurrences, or who can provide relevant information concerning the Complaint (*attach additional pages as needed*):

_____

8. Briefly describe the remedy or corrective action you seek. You may attach additional pages for a more detailed description, but this section must contain a brief summary.

_____

9. Name(s) of the individual(s) you allege to have engaged in wrongful conduct, as set out in the EDR Plan:

_____

Alleged Wrongful Conduct for which you seek Assisted Resolution (*check all that apply*):

Discrimination based on (*check all that apply*):

- ☐ Race
- ☐ Color
- ☐ Sex
- ☐ Gender
- ☐ Gender identity
- ☐ Pregnancy
- ☐ Sexual orientation
- ☐ Religion
- ☐ National origin
- ☐ Age
- ☐ Disability

☐ Harassment based on (*check all that apply*):

- ☐ Race
- ☐ Color
- ☐ Sex
- ☐ Gender
- ☐ Gender identity
- ☐ Pregnancy
- ☐ Sexual orientation
- ☐ Religion
- ☐ National origin
- ☐ Age
- ☐ Disability

- ☐ Abusive Conduct
- ☐ Retaliation
- ☐ Whistleblower Protection
- ☐ Family and Medical Leave
- ☐ Uniform Services Employment and Reemployment Rights
- ☐ Worker Adjustment and Retraining
- ☐ Occupational Safety and Health
- ☐ Polygraph Protection
- ☐ Other (describe)

Do you have an attorney or other person who represents you?

☐ Yes

Please provide name, mailing address, email address, and phone number(s):

_____

☐ No

I acknowledge that this Request will be kept confidential to the extent possible, but information may be shared to the extent necessary and with those whose involvement is necessary to resolve this matter, as explained in the EDR Plan (*see* EDR Plan § IV.B.1).

I affirm that the information provided in this form is true and correct to the best of my knowledge:

Your signature _____

Date submitted _____

Request for Assisted Resolution reviewed by EDR Coordinator on: _____

EDR Coordinator name _____

EDR Coordinator signature _____

Local Court Claim ID (**Court Initials–AR–YY–Sequential Number**):

_____

FORMAL COMPLAINT FORM
APPENDIX 3

Submitted under the Procedures of the _____ Employment Dispute Resolution Plan

1. Court, Federal Public Defender's Office, or Bankruptcy Administrator's Office in which you work or with which you interviewed:

   _____

2. Your full name. You are deemed the Complainant: _____

3. The Employing Office will be deemed the Respondent. Name of Employing Office and your position within the above Court, Federal Public Defender's, or Bankruptcy Administrator's Office in which you are employed or applied for employment (e.g., Clerk's Office, Docket Clerk):

   _____

4. Address of the above Employing Office:

   _____

<u>For a person alleging a failure to hire claim:</u>

5. The job title of the position you applied for:_____

6. Date of interview: _____

7. Set out in a brief, several-sentence long narrative below the reasons why you contend the failure to hire you constituted wrongful conduct in violation of the EDR Plan. Please attach additional pages to include further details, but this section must contain a brief narrative.

   _____

For all other claims

8. Date(s) of alleged incident(s) for which you seek a remedy (*attach additional page as needed*):

_____

9. Explanation of Claim(s): Set out in a brief, several-sentence long narrative below the actions that you allege to have constituted wrongful conduct and for which you seek relief. Please attach additional pages for a detailed description, but this section must contain a brief narrative.

_____

10. Identify, and provide contact information for, any persons who were involved in this matter, who were witnesses to the actions or occurrences, or who can provide relevant information concerning the Complaint (*attach additional pages as needed*):

_____

11. Briefly describe the remedy or corrective action you seek. You may attach additional pages for a more detailed description, but this section must contain a brief summary.

_____

12. Name(s) of the individual(s) you allege to have engaged in wrongful conduct, as set out in the EDR Plan (*attach additional pages as needed*:

_____

Identify the Wrongful Conduct that you believe occurred (*check all that apply*):

- ☐ Discrimination based on (*check all that apply*):
  - ☐ Race
  - ☐ Color
  - ☐ Sex
  - ☐ Gender
  - ☐ Gender identity
  - ☐ Pregnancy
  - ☐ Sexual orientation
  - ☐ Religion
  - ☐ National origin
  - ☐ Age
  - ☐ Disability
- ☐ Harassment based on (*check all that apply*):
  - ☐ Race
  - ☐ Color
  - ☐ Sex
  - ☐ Gender
  - ☐ Gender identity
  - ☐ Pregnancy
  - ☐ Sexual orientation
  - ☐ Religion
  - ☐ National origin
  - ☐ Age
  - ☐ Disability

- ☐ Abusive Conduct
- ☐ I have already sought Assisted Resolution for this Abusive Conduct claim.
  Provide date Request for Assisted Resolution submitted and concluded, and describe the resolution, if any:

_____

- ☐ Retaliation
- ☐ Whistleblower Protection
- ☐ Family and Medical Leave
- ☐ Uniform Services Employment and Reemployment Rights
- ☐ Worker Adjustment and Retraining
- ☐ Occupational Safety and Health
- ☐ Polygraph Protection
- ☐ Other (describe)

Do you have an attorney or other person who represents you?

- ☐ Yes
  Please provide name, mailing address, email address, and phone number(s):

  _____

- ☐ No

☐ I have attached copy(ies) of any documents that relate to my Complaint (such as emails, notices of discipline or termination, job application, etc.).

I acknowledge that court officials administering the Complaint process will protect confidentiality to the greatest extent possible, but information may be shared to the extent necessary and with those whose involvement is necessary to resolve this matter, as explained in the EDR Plan (*see* EDR Plan § IV.B.1).

I affirm that the information provided in this Complaint is true and correct to the best of my knowledge:

Complainant signature _____

Date submitted _____

Complaint reviewed by EDR Coordinator on _____

EDR Coordinator name _____

EDR Coordinator signature _____

Local Court Claim ID (**Court Initials–FC–YY–Sequential Number**):

_____

REQUEST FOR REVIEW OF DECISION (APPEAL)
APPENDIX 4

Submitted under the Procedures of the _____ Employment Dispute Resolution Plan

Name of Requesting Party _____

Name of Court in Which Presiding Judicial Officer's Decision Was Issued

_____

_____, Requesting Party v.

_____, Responding Party

Request for Review of Decision on Formal Complaint

Notice is hereby given that _____, (Requesting Party) in the above named case, hereby requests review by the Judicial Council for the Eleventh Circuit from the decision by Judge _____ entered in this matter on the _____ day_____ of _____20__.

☐ Attached to this request is a copy of the Presiding Judicial Officer's decision.

In a separate attachment, state in narrative form and in detail the reason(s) you contend that the Presiding Judicial Officer's decision was in error.

Do you have an attorney or other person who represents you?

☐ Yes
Please provide name, mailing address, email address, and phone number(s):

_____

☐ No

I affirm that the information provided in this Request for Review of Decision is true and correct to the best of my knowledge:

Signature of Requesting Party _____

Date submitted: _____

Signature of Counsel, if any _____

Received by the Circuit Executive on: _____

Circuit Executive signature: _____

POSTERS
APPENDIX 5

UNITED STATES COURTS

You Have Options

How to Address Wrongful Conduct in the Workplace

INFORMAL ADVICE

To request advice about a workplace concern, contact your Employment Dispute Resolution (EDR) coordinator, Circuit Director of Workplace Relations, or the Office of Judicial Integrity. They can provide you with advice and guidance on how to address the issue including:

- Your rights under the EDR Plan
- Advice on handling discriminatory, harassing, or abusive conduct
- Options for addressing the conduct

ASSISTED RESOLUTION

Contact an EDR Coordinator to request Assisted Resolution. This interactive, flexible process may include:

- Discussions with the source of the conduct
- Preliminary investigation, including interviewing witnesses
- Resolving the matter by agreement

FORMAL COMPLAINT

Contact an EDR coordinator to file a formal complaint.

The Complaint must be filed within **180 days** of the alleged violation or the discovery of the violation. This formal process includes:

- Appointment of Presiding Judicial Officer
- An investigation and/or hearing if appropriate
- Written decision
- Appeal rights

Confidentiality

All options for resolution are intended to respect privacy of all involved to the greatest extent possible, and to protect the fairness and thoroughness of the process by which allegations of wrongful conduct are initiated, investigated, and ultimately resolved.

Contact Information:

Local EDR Coordinators

Michelle Taylor-Owens, (478) 749-6840
michelle_taylor-owens@gamb.uscourts.gov
Tydra Miller, (478) 752-0730
tydra_miller@gamd.uscourts.gov
Shekinnah G. Bush, (229) 588-7036
shekinnah_bush@gamp.uscourts.gov

Circuit Director of Workplace Relations

Kathleen "Kate" Adams
(404) 335-6535

National Office of Judicial Integrity

Michael Henry, Judicial Integrity Officer
(202) 502-1603
AO_OJI@ao.uscourts.gov

The Middle District of Georgia's EDR Plan is located on the internal and external main homepages for the District Court, Bankruptcy Court and Probation Office under the link labeled "Your Employee Rights and How to Report Wrongful Conduct."

Effective date: February 1, 2026

UNITED STATES COURTS

Your Rights

In a Federal Judiciary Workplace

Employees of the Federal Judiciary are protected by the employment rights listed below, as described in *Guide to Judiciary Policy*, Vol. 12, Ch. 2.

Employees have options for resolution, including Informal Advice, Assisted Resolution, and filing a Formal Complaint. Formal Complaints must be filed within 180 days of when the Employee knew or should have known of the alleged violation. More information, including a list of court EDR Coordinators, can be found on JNet.

Employees may confidentially report workplace discrimination, harassment, abusive behavior, or retaliation to an EDR Coordinator or the Judicial Integrity Officer, Michael Henry, at 202-502-1603.

Protection from Unlawful Discrimination

Prohibits discrimination in personnel actions based on race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age (40+), or disability.

Protection from Harassment

Prohibits sexual harassment, discriminatory harassment, and abusive conduct.

Protection for Exercising Workplace Rights

Prohibits intimidation, retaliation, or discrimination against employees who exercise their employment rights or report or oppose wrongful conduct, including whistleblower protection.

Family and Medical Leave

Provides rights and protections for employees needing leave for specified family and medical reasons.

Protection for Veterans and Members of the Uniformed Services

Protects employees performing service in the uniformed services from discrimination and provides certain benefits and reemployment rights.

Notification of Office Closings and Mass Layoffs

Under certain circumstances, requires that employees be notified of an office closing or of a mass layoff at least 60 days in advance of the event.

Hazard-Free Workspaces

Requires employing offices to comply with occupational safety and health standards, and provide workplaces free of recognized hazards.

Polygraph Testing Prohibition

Restricts the use and the results of polygraph testing.

These rights are fully explained in Guide to Judiciary Policy, Vol. 12, Ch. 2.

Effective date: February 1, 2026

UNITED STATES COURTS

The Employment Dispute Resolution Formal Complaint Process

File a Complaint

File a complaint with an EDR coordinator within 180 days of the conduct (or discovery of the conduct).

Gather Information

The Presiding Judicial Officer decides what investigation and discovery are needed and if written arguments are needed.

Hearing

The Presiding Judicial Officer determines if a hearing is needed.

DECISION

RIGHTS

- An impartial investigation and/or hearing, if appropriate.
- Both parties may use an attorney (at own expense).
- Both parties may present witnesses and examine adverse witnesses.
- A prompt written decision by a Presiding Judicial Officer.
- Appeal.

APPEAL

Parties have the right to appeal to the circuit judicial council within 30 days of a decision.

Effective date: February 1, 2026

Procedures For Dissemination and Public Disclosure of a Final Decision Resolving an EDR Complaint

APPENDIX 6

I. Considerations Concerning Release of Final Decisions

Section VI.C. of the Eleventh Circuit Judicial Council Model Employment Dispute Resolution Plan ("EDR Plan") provides that "Final decisions under this Plan will be made available to the public, appropriately redacted, in accordance with the procedures established in Appendix 6 of the Eleventh Circuit Judicial Council Model EDR Plan." The procedures set out herein attempt to balance two important considerations: the privacy interest of all persons involved in an internal personnel dispute versus the need for public confidence in the judiciary's employment dispute resolution process. These procedures apply to all EDR plans in the Eleventh Circuit that were adopted after 19 June 2020.

II. Final Decision

a. When the Presiding Judicial Officer has determined that the Complainant has failed to prove wrongful conduct in violation of this EDR Plan, the Officer's written decision setting out the basis for that decision constitutes the Presiding Judicial Officer's "final decision."

b. When the Presiding Judicial Officer has issued a written ruling concluding that the Complainant has proved wrongful conduct in violation of this EDR Plan, additional proceedings may be required to identify an appropriate remedy. The Presiding Judicial Officer's consolidated written decision setting out the basis for the Officer's determination of wrongful conduct, combined with a written decision identifying the remedy directed to be provided, constitutes the Presiding Judicial Officer's "final decision."

c. Upon a Request for Review of the Presiding Judicial Officer's final decision, the Judicial Council's order and any memorandum resolving

the Complainant's claims shall constitute the Judicial Council's final decision. An order by the Judicial Council remanding for further investigation or findings by the Presiding Judicial Officer does not constitute a final decision.

d. The term "final decision" does not include any decisions made or resolutions reached during the Informal Advice or Assisted Resolution processes. Neither does it include a settlement agreement.

e. A final decision shall be released only in accordance with the redaction procedures described below.

III. Redaction Protocol for a Final Decision Issued by the Presiding Judicial Officer

a. At the same time that the Presiding Judicial Officer issues an unredacted final decision, the latter shall also issue a redacted final decision.

b. The EDR Coordinator shall send both a redacted and unredacted copy of the final decision to the Chief Circuit Judge, the Circuit Director of Workplace Relations, the Chair of the EEO Committee, and the Chief Judge of the district or bankruptcy court if the Complainant was employed by one of those courts. The Chief Circuit Judge must approve any redactions to the Presiding Judicial Officer's final decision prior to any dissemination of the redacted decision. The EDR Coordinator shall send a redacted copy of the final decision to the Complainant, the person representing the employing office, and to any person accused of wrongful conduct.

c. After a Request for Review of the Presiding Judicial Officer's final decision has been filed, members of the Judicial Council shall receive both a redacted and unredacted copy of that decision. The Presiding Judicial Officer's final decision shall not be publicly released until after the Judicial Council has issued its final decision. The Presiding Judicial Officer is not authorized to release publicly the Officer's final decision, which task rests with the Chief Circuit Judge.

IV. Redaction Protocol for the Judicial Council Final Decision

a. Following a Request for Review and prior to the public release of any final decision, the Chief Circuit Judge shall ensure that appropriate redactions to the Judicial Council's and Presiding Judicial Officer's final decision have been made.

b. The Circuit Director of Workplace Relations shall send both redacted and unredacted copies of the Judicial Council's final decision to the Chair of the EEO Committee and the Chief Judge of the district or bankruptcy court if the Complainant was employed by one of those courts. The Circuit Director of Workplace Relations shall send a redacted copy of the Judicial Council's final decision to the Complainant, the person representing the employing office, and to any person accused of wrongful conduct.

V. Material to be Redacted

a. The issuance of a redacted final decision informs the reader of the substance of the Complaint, the process through which that Complaint has been investigated, and its ultimate resolution. Redaction of the names of the parties and other involved persons is intended to protect the privacy of those parties and persons.

b. In addition to blacking out the names of individuals discussed therein, redacted decisions should use descriptor words for those individuals to make the redacted decision understandable. For example, the decision could use such words, as "Complainant," "Supervisor," or "Employee #1" to refer to involved individuals.

c. The names of the parties shall be redacted from any final decisions released by the Chief Circuit Judge to the public absent a decision to the contrary by the Judicial Council, as set out in subsection e. below.

d. Final decisions released by the Chief Circuit Judge to the public may also redact:

i. The names of other individuals involved in the subject-matter of the dispute;

ii. Information that could reasonably lead to the identification of the parties unless inclusion of that information is necessary to explain the reasoning of the final decision; and

iii. Sensitive information in which a person's privacy interest substantially outweighs both the relevancy of that information to the decision-making process and the public interest in being made aware of the information.

e. Release of an unredacted final decision

i. Although information identifying the parties will typically be redacted from final decisions released to the public, the Judicial Council may decline to redact a particular party's name when it determines that the public interest warrants that action. For example, when a Complainant or a person acting on behalf of a Complainant has publicly identified the Complainant and released information concerning the Complainant's allegations, the Council may deem it necessary that the released final decision likewise identify the Complainant in order to make the public aware of the resolution of those allegations previously made public. *See* Rules for Judicial-Conduct and Judicial-Disability Proceedings, Rule 23 Commentary (although it "will generally be necessary" to shield the identity of the Complainant in any materials disclosed to the public, an exception to this principle may arise when there is "a demonstrated need for disclosure," such as when the Complainant has "demonstrated a lack of concern about maintaining the confidentiality of the proceedings.").

ii. A party may file a motion showing cause why a final decision should not redact a particular party's or other person's name. In

addition, the Judicial Council may *sua sponte* determine that redaction of a particular party's name is not warranted.

iii. Prior to releasing publicly a final decision that does not redact a party's name, the Judicial Council will give the parties an opportunity to object.

VI. Release of Final Decisions

a. Redacted final decisions involving a judicial officer who has been accused of wrongful conduct will be posted on the Eleventh Circuit's public website. Only final decisions will be released to the public.

b. Final decisions in which a judicial officer has not been accused of wrongful conduct—that is, the persons accused of wrongful conduct are not judges—will not be released publicly absent a substantial public interest for doing so, as determined by the Judicial Council.

VII. Distribution Of All EDR Final Decisions to the Administrative Office of Courts

All EDR final decisions, whether or not released publicly, will be sent in redacted form to the Director and to the Judicial Integrity Officer of the Administrative Office of Courts.

VIII. Internal Distribution of EDR Final Decisions

Presiding Judicial Officers shall have access to redacted copies of final decisions issued under this Plan.

Effective date: 20 February 2025

CONTACT INFORMATION
APPENDIX 7

THIS INFORMATION WILL NOT BE SHARED WITH ANY PARTY ABSENT CONSENT OR A DEMONSTRATED NEED TO DO SO, AS DETERMINED BY THE CHIEF JUDGE, PRESIDING JUDICIAL OFFICER, OR CIRCUIT EXECUTIVE.

Submitted under the Procedures of the Eleventh Circuit Court of Appeals Employment Dispute Resolution Plan

2. Your name: _____

3. Your mailing address:

   _____

4. Your email address:

   _____

5. Your phone number(s):

   _____

Your signature: _____

Date submitted: _____

Received by EDR Coordinator/Circuit Executive on: _____

EDR Coordinator/Circuit Executive name: _____

EDR Coordinator/Circuit Executive signature: _____

Claim ID:

_____