

**POLICY ON EQUAL EMPLOYMENT OPPORTUNITY,  
DISCRIMINATION, HARASSMENT, AND EMPLOYMENT  
DISPUTE RESOLUTION FOR THE UNITED STATES COURTS  
FOR THE SOUTHERN DISTRICT OF INDIANA**

Adopted October 11, 2018  
Revised December 21, 2020

**I. Policy Statement**

The courts of the Seventh Circuit are committed to providing rights and protections to all court employees. Equal employment opportunity is provided to all persons regardless of their race, color, national origin, age (if at least 40 years of age at the time of the alleged discrimination), religion, sex, sexual orientation, gender identity or expression, veteran status, disability, or genetic information. The courts of the Seventh Circuit will promote equal opportunity through a program encompassing all facets of personnel management, including recruitment, hiring, promotion, and advancement. Discrimination against, harassment of, or abusive conduct toward court employees will not be tolerated. Retaliation against employees for good-faith efforts to assert rights and protections under this Policy also will not be tolerated.

**II. Scope of Coverage**

This Policy applies to all courts and court units within the Southern District of Indiana, including the District Court, the Bankruptcy Court, the Clerk's Offices of the District and Bankruptcy Courts, and the United States Probation Office. The Policy applies to all Judges, current and former court employees (including all law clerks; chambers employees; paid and unpaid interns, externs, and other volunteers; and probation and pretrial services employees) and applicants for employment who have been interviewed. The following persons cannot seek relief under this Policy: Judges, magistrate judge applicants, Criminal Justice Act panel attorneys and applicants, investigators and service providers, attorneys accepting court *pro bono* appointments, and any other non-employees not specified above.

This Policy is not intended to duplicate or supersede the provisions for resolving complaints of Judges' misconduct or disability under 28 U.S.C. §§ 351–362. Alleged judicial misconduct must be addressed through a judicial misconduct complaint directed to the Chief Judge of the Seventh Circuit.

### **III. Definitions**

For purposes of this Policy —

- A. The term “Employing Office” includes all offices of the United States District Court for the Southern District of Indiana, including the Office of the Clerk; the United States Bankruptcy Court for the Southern District of Indiana, including the Office of the Clerk; and the United States Probation Office for the Southern District of Indiana. The District and Bankruptcy Courts are the Employing Offices of District and Bankruptcy Judges’ chambers staff, respectively.
- B. The term “court” refers to the District Court and/or Bankruptcy Court, and the Employing Office that would be responsible for redressing, correcting, or abating the alleged violations.
- C. The term “disability” means 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. (For extended text, see 42 U.S.C. § 12102(2)).
- D. The term "employee" includes Court Unit Executives and their staffs; judicial assistants and other chambers employees; law clerks; court reporters appointed by the court; and paid and unpaid interns, externs, and other volunteer employees; and, for purposes of this Policy, applicants for employment who have been interviewed.
- E. The term "Judge" means a District Judge appointed under Article III of the Constitution, a United States Bankruptcy Judge, or a United States Magistrate Judge.
- F. The term "wrongful conduct" includes discrimination against, harassment of, abusive conduct toward, or retaliation against an employee under this Policy.

### **IV. Equal Employment Opportunity and Anti-Discrimination Rights**

Discrimination based on race, color, national origin, age (if at least 40 years of age at the time of the alleged discrimination), religion, sex, sexual orientation, gender identity or expression, veteran status, disability, or genetic information is prohibited.

Court Unit Executives must ensure that, consistent with the *Guide to Judiciary Policy*, vacancies are publicly announced to attract candidates who represent the make-up of persons available in the qualified labor market and that all hiring decisions are based solely on job-related factors. Reasonable efforts should be made to see that the skills, abilities, and potential of each employee are identified and developed, and that all employees are given equal opportunities for promotions by being offered, when the work of the court permits, and within the limits of available resources, cross-training, reassignments, special assignments, and job-related training.

**Recruitment** — Each non-chambers Employing Office will make reasonable efforts in the recruitment process to obtain a pool of qualified applicants who reflect the make-up of all such persons in the relevant labor market and will publicize all vacancies. Each chambers will follow all hiring practices set forth in or consistent with the *Guide to Judiciary Policy*.

**Hiring** — Each Employing Office will make its hiring strictly upon an evaluation of a person's qualifications and ability to perform the duties of the position satisfactorily.

**Promotion** — Each Employing Office will promote employees according to their experience, training, and demonstrated ability to perform duties of a higher level.

**Advancement** — Each Employing Office will seek, insofar as reasonably practicable, to improve the skills and abilities of its employees through cross- training, job restructuring, assignments, and training.

## **V. What is Discrimination?**

Discrimination is generally defined as a materially adverse action affecting the terms and conditions of employment that is taken because of an individual's race, color, national origin, age, religion, sex, sexual orientation, gender identity or expression, veteran status, disability, or genetic information.

## **VI. What is Harassment?**

Harassment is a form of discrimination. It is generally defined as unwelcome conduct that is based on race, color, national origin, age, religion, sex, sexual orientation, gender identity or expression, veteran status, disability, or genetic information, that is subjectively and objectively offensive and has the purpose or effect of unreasonably interfering with an individual's work and creating an abusive, hostile, or intimidating work environment.

Sexual harassment is a form of discrimination based on sex. It may include unwelcome sexual advances or other nonconsensual conduct of a sexual nature, when (1) submission to or rejection of such conduct is used as a basis or threatened basis for employment decisions, or (2) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance and creating an abusive, hostile, or intimidating work environment.

Sexually harassing behavior includes physical, verbal, and nonverbal behavior. Examples of inappropriate sexual behavior include, but are not limited to:

- unwanted sexual advances;
- inappropriate touching or other physical contact;
- promotion, retention or other employment actions (positive or negative) affected by an individual's submission to or rejection of unwelcome sexual advances;
- favoritism based on submission (consensual or nonconsensual) to sexual overtures;
- repeated sexual jokes, flirtations, advances or propositions, or discussions of sexual activity (whether in conversation or through electronic or other means);
- abuse of a sexual nature or suggestive, insulting, or obscene comments or gestures; and
- display of sexually suggestive objects or pictures.

This Policy also expressly prohibits behavior that harasses or discriminates against court employees on the basis of any factor protected by law. Forms of such harassment or discrimination can include physical, verbal, and nonverbal behavior that harasses, or disrupts or interferes with work performance, or in any way creates or contributes to an intimidating, hostile, or offensive work

environment. Examples of such harassment or discrimination include, but are not limited to:

- Epithets, threats, slurs, or off-color jokes; and
- Drawings, cartoons, or behavior that is insulting, derogatory, or ridiculing of persons based on their legally protected status.

## **VII. What is "Abusive Conduct"?**

"Abusive Conduct" includes a pattern of demonstrably egregious and hostile conduct not based on a legally protected category, including bullying, harassment, disrespectful treatment of colleagues, or actions that undermine the court's ability to administer justice and serve the public.

Abusive conduct does not include communications and actions reasonably related to performance management, including but not limited to: instruction, corrective criticism and evaluations; performance improvement plans; duty assignments and changes to duty assignments; office reorganizations; progressive discipline; and adverse actions.

## **VIII. What is Retaliation?**

Retaliation is action taken against an employee for reporting wrongful conduct; for assisting in the defense of rights protected by this Policy, or for opposing wrongful conduct. Retaliation against a person who reveals or reports wrongful conduct is itself wrongful conduct. Any alleged act of retaliation shall be handled in the same manner as a report of other wrongful conduct under this Policy.

## **IX. Employment Dispute Resolution Coordinator**

The Chief Judge of each court will designate an individual to serve as the court's EEO/EDR Coordinator. The duties of the court's EEO/EDR Coordinator include:

- providing information to the Judges and employees of the court regarding the rights and protections afforded under this Policy;
- advising the court's Chief Judge regarding designation of EEO/EDR counselors—employees who agree to serve in that role and to receive

specialized training in counseling other employees and in the procedures established by this Policy, including the formal EDR procedures—within each court and Employing Office within the Seventh Circuit.

Pursuant to the Seventh Circuit’s Policy on Equal Employment Opportunity, Discrimination, Harassment, and Employment Dispute Resolution, the Chief Judge of the Seventh Circuit will designate an individual to serve as the Circuit EEO/EDR Coordinator. The duties of the Circuit EEO/EDR Coordinator include:

- providing information to the judges and employees of the courts within the Seventh Circuit regarding the rights and protections afforded under this Policy;
- advising the Chief Judge of the Seventh Circuit regarding designation of EEO/EDR counselors—employees who agree to serve in that role and to receive specialized training in counseling other employees and in the procedures established by this Policy, including the formal EDR procedures—within each court and Employing Office within the Seventh Circuit;<sup>1</sup>
- disseminating information to employees regarding the identity of designated EEO/EDR counselors and how to contact one of them if necessary;
- coordinating and organizing the procedures to establish and maintain official files of the court pertaining to reports and requests for dispute resolution and other matters initiated and processed under this Policy;
- coordinating relevant training for employees and judges;
- collecting, analyzing, and consolidating statistical data and other information pertaining to the court’s processes under this Policy;

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<sup>1</sup> A current list of designated EEO/EDR counselors within the circuit must be readily available to employees within the Seventh Circuit. Designations are made by the Chief Judges of the District and Bankruptcy Courts, after consulting with the other Judges of their respective Courts. The goal is that an employee who wishes to request advice or to make a report of wrongful job-related conduct may be able to choose to communicate with an individual who is or is not in the same court unit or location, and with a person whom the employee can trust to understand and empathize with those involved.

- recording any resolution reached on matters initiated under this Policy; and
- compiling and submitting an annual report on the implementation of its EEO/EDR Policy to the Administrative Office for inclusion in the Director's Annual Report to the Judicial Conference.

## **X. Options for Resolution**

As an employee of the Southern District of Indiana, if you believe that you have been subjected to discrimination, harassment, retaliation, or abusive conduct, you have a number of options. You should select the route you feel most appropriate for your circumstances, which may include a request for advice, an informal report of wrongful conduct, or a request for formal dispute resolution. If you are experiencing egregious conduct by a Judge, Court Unit Executive, or supervisor that makes it untenable for you to continue working for that person, pending investigation and resolution of the matter you may also request transfer, an alternative work arrangement, or administrative leave. Any such request for interim relief must be made in writing to the Chief Judge or Court Unit Executive, as appropriate, to determine whether your request for interim relief is appropriate under the specific circumstances of your situation. In evaluating whether interim relief should be granted, the Chief Judge or Court Unit Executive should also take into consideration the impact on the Employing Office.

**Requests for Advice:** You may, as an initial matter, contact the court or Circuit EEO/EDR Coordinator or a designated EEO/EDR counselor to request advice about your situation. Any request for advice will be kept confidential, but the contacted Coordinator or counselor will provide an explanation of the informal and formal options for pursuing the matter under this Policy.

**Informal Reports of Wrongful Conduct:** You also may report wrongful job-related conduct to the court's or Circuit EEO/EDR Coordinator or a designated EEO/EDR counselor. A Judge may be the subject of a request for advice or a report of wrongful conduct.

*If the request for advice or report of wrongful conduct indicates wrongful conduct by a judicial officer, the person receiving the information shall promptly notify the Chief Judge*

*of the Seventh Circuit (either directly or through the Circuit EEO/EDR Coordinator) so that the Chief Judge of the Seventh Circuit may take any appropriate action, including informal measures, pursuant to the provisions of 28 U.S.C. §§ 351–362 and Volume 2, Part E of the Guide to Judiciary Policy.*

The court or Circuit EEO/EDR Coordinator or designated EEO/EDR counselor shall ensure that all reports of wrongful conduct not involving judicial officers are investigated by the appropriate persons, and efforts should be made to resolve the issue through meaningful discussion and mediation. The informal nature of the process is intended to provide as much flexibility as possible in reaching an appropriate resolution of the report. The court or Circuit EEO/EDR Coordinator or designated EEO/EDR counselor shall keep informal investigations not involving judicial officers as confidential as possible under this Policy.

**Formal Dispute Resolution:** You also may initiate a more formal dispute resolution process, which may involve a formal hearing, by submitting a written request pursuant to the procedures set forth below in Section XIII.

**Other Options:** If you prefer to address the situation without assistance, you can communicate either orally or in writing with the person whose behavior is of concern. Your communication should clearly identify the conduct that is of concern and indicate that it was unwelcome and offensive and should cease. Such a communication often will cause the unwelcome behavior to stop, particularly where the person may not be aware that the conduct is unwelcome or offensive.

Regardless of how you choose to address your concerns, the court may be required, or may otherwise deem it appropriate, to commence its own investigation and to take further action.

## **XI. Responsibility to Report Wrongful Conduct**

Discriminatory, harassing, retaliatory, or other inappropriate behavior covered by this Policy often can occur without witnesses. What one person may regard as offensive, another may not. For the court to implement this Policy effectively, it is critical that all employees respond to and report discrimination, harassment, retaliation, and inappropriate sexual and other behavior covered by this Policy. If you believe that you have been subjected to discrimination, harassment, retaliation, or inappropriate sexual or other behavior, you are encouraged to ask the offender to stop engaging in the objectionable behavior. In addition (or



instead, if such informal requests are ineffective or impractical under the circumstances), you should report such conduct to the court's or Circuit EEO/EDR Coordinator or a designated EEO/EDR counselor as soon as practical.

If the individual committing the alleged discrimination or harassment works for an outside agency such as the United States Marshals Service (including Court Security Officers), United States Attorney's Office, Office of the United States Trustee, Office of the Indiana Federal Community Defender, General Services Administration, or local law enforcement, the appropriate Chief Judge or Court Unit Executive should confidentially report the allegation to the head of the agency and request an internal investigation to be followed by a final report of the outcome of the investigation to the appropriate Chief Judge or Court Unit Executive within a reasonable time.

If you have reason to believe that a colleague has been subjected to or has engaged in discrimination, harassment, retaliation, or inappropriate sexual or other behavior, you are encouraged to ask the offender to stop engaging in the objectionable behavior. In addition (or instead, if such informal requests are ineffective or impractical under the circumstances), the court encourages you to promptly report discrimination or other inappropriate behavior to the court's or Circuit EEO/EDR Coordinator or a designated EEO/EDR counselor and to make such report before the behavior has become severe or pervasive. Prompt reporting could prevent the behavior from escalating and allows the court to respond rapidly and to take appropriate action to minimize harm to individuals involved and to minimize the disruption to our work environment. The appropriate court will promptly investigate all reports of discrimination or inappropriate sexual or other behavior. Reports and investigations will be handled in as confidential manner as possible, consistent with the need to investigate and take corrective action.

Supervisors who learn of inappropriate behavior have an obligation to take effective remedial action, including ensuring notification of the EEO/EDR Coordinator and/or the Court Unit Executive.

## **XII. Confidentiality**

The courts of the Southern District of Indiana will strive to protect, to the greatest extent possible, the confidentiality of persons reporting discrimination, harassment, or retaliation, and of those accused of such conduct. Complete

confidentiality cannot be guaranteed, however, where it would conflict with the court's obligation to investigate meaningfully or to take corrective action. Even when some disclosure of information or sources is necessary, it will be limited to the extent possible. The courts will, to the extent permitted by law and consistent with their responsibilities to the public, keep confidential all records of reports of wrongful conduct, requests for formal dispute resolution, responses, and investigations. To the extent a report addresses wrongful conduct by a judicial officer, confidentiality will be governed by 28 U.S.C. §§ 351–362 and Volume 2, Part E of the *Guide to Judiciary Policy*.

Confidentiality obligations 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, including sexual, racial, or other forms of discriminatory harassment by a Judge, supervisor, or other person.

If you believe you might have been subjected to discrimination or harassment and want to discuss the matter in a more confidential setting or clarify your feelings about whether and how you wish to proceed, you may want to consult a social worker, therapist, or clergy member who may be permitted by law to assure greater confidentiality. Employees may contact the Employee Assistance Program (1-800-222-0364) for confidential assistance and, if desired, referral to other resources. Discussions with the Employee Assistance Program are confidential and are not considered notice to the appropriate court.

### **XIII. Formal Dispute Resolution Procedures**

#### **A. Request for Formal Dispute Resolution**

If an employee who reports wrongful conduct informally feels that the issue of discrimination, harassment, or retaliation has not been resolved by the informal process, the employee may request a hearing before the Chief Judge of the appropriate court. The request must be made within 180 days of the alleged violation or within 180 days of the time the employee becomes aware of the alleged violation. The request must be in writing, identify all individuals involved, describe the discrimination, harassment, or retaliation at issue, and identify the relief or remedy being sought.

The employee bringing the request for formal dispute resolution is called the "Petitioner." The party responding to the request is the Employing Office that is responsible for providing an appropriate remedy and is called the "Respondent." The request for formal dispute resolution is not brought against any specific individual(s), but against the Employing Office. The matter should be designated "In the Matter of [Employing Office]" and given an appropriate number for purposes of record-keeping.

To the extent feasible, a Petitioner may use a reasonable amount of official time to address the issue, so long as it does not unduly interfere with the performance of his or her court duties.

The formal request for a hearing and any other documents shall be reviewed by the Chief Judge or by another judge of the court designated by the Chief Judge. In the event the Chief Judge recuses or is unavailable to serve, the reviewing official shall be designated by the most senior active judge.

## **B. Investigation and Hearing**

The Judge assigned to resolve the matter should determine what investigation is necessary, including the individuals to be contacted and documents to be gathered. Once the investigation is complete, a hearing must be held to resolve the matter, unless the Judge determines that no material factual dispute exists. In general, the presiding Judge determines the time, place, and manner of conducting the hearing. However, the following specific provisions apply to hearings conducted under this Section:

- the hearing shall be commenced no later than 60 days after the filing of the request;
- the Petitioner and the head of the office from which relief is sought must receive written notice of the hearing; such notice shall also be provided to the individual(s) alleged to have violated rights protected by this Policy;
- at the hearing, the Petitioner will have the right to representation, to present evidence on his or her behalf and to

cross-examine witnesses, and the Employing Office will have the right to present evidence on its behalf and to cross-examine witnesses;

- a verbatim record of the hearing must be kept and shall be the sole official record of the proceeding;
- in reaching a decision, the presiding Judge shall be guided by the judicial and administrative decisions under the relevant statutes;
- remedies may be provided as set forth in this Policy where the judicial officer finds that the Petitioner has established by a preponderance of the evidence that a substantive right protected by this Policy has been violated;
- the final decision of the presiding Judge must be issued in writing not later than 30 days after the conclusion of the hearing, and any necessary orders shall be signed by the judicial officer issuing the final decision;
- all parties and any aggrieved individuals shall have the right to written notice of any action taken as a result of a hearing; and
- any person or party involved in the review process shall not disclose, in whole or in part, any information or records obtained through or prepared specifically for, the review process, except as necessary to consult with the parties or their representatives, and then only with notice to all parties. A written record of such contacts must be kept and made available for review by the affected person(s).

The presiding Judge may extend any of the deadlines set forth in this Policy for good cause. All extensions of time granted will be made in writing and become part of the record.

The Petitioner and/or the Respondent may appeal the decision to a three-judge panel for recommendation to the entire Circuit Council by submitting in writing a Request for Review of Decision setting for the grounds for appeal within 30 days of the date of the decision. According to Circuit Policy, such a panel shall be chosen from among Circuit Council members who are not part of the court involved in the matter. The EDR Coordinator will inform the parties of the procedures for seeking review. The decision will be reviewed based on the record created by the presiding Judge. A decision by the Circuit Council is final.

### **C. Right to Representation**

Every person requesting formal dispute resolution under this Policy and every person accused of wrongful conduct shall have 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. Persons requesting formal dispute resolution may employ counsel at their own expense but do not have the right to counsel appointed at government expense.

### **D. Disqualification or Recusal**

Whenever a person invoking the formal dispute resolution procedures of this Policy or an Employing Office or person whose conduct is the subject of such a request files a timely and sufficient written statement that the presiding Judge has a personal bias or prejudice for or against any interested party, the matter shall not proceed until the presiding Judge has had an opportunity to consider the statement and to decide whether disqualification is appropriate.

The written statement shall state the facts and the reasons for the belief that bias or prejudice exists and shall be provided to the appropriate Chief Judge, the person to be disqualified, the Employing Office, and the Circuit EEO/EDR Coordinator within 14 days after a judge is assigned to hear the matter.

### **E. Remedial Actions**

Potential remedies for conduct determined to constitute harassment, discrimination, or retaliation under this Policy may include but are not limited to the following:

- placement of an employee in an open position previously denied;
- placement in a comparable alternative position to which the complainant consents, so long as funding exists and placement would not violate any judicial policy regarding advertising and/or hiring;
- reinstatement to a position from which previously removed;
- prospective promotion to a position (consistent with hiring practices as outlined in the *Guide to Judiciary Policy*);
- priority consideration for a future promotion or position;
- 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;
- records modification and/or expungement;
- "equitable" relief, such as temporary stays of adverse actions;
- granting of family and medical leave;
- any reasonable accommodation(s), including accommodation of disabilities through the purchase of specialized equipment or the restructuring of duties and work hours; and
- any other appropriate remedy to address the wrongful conduct.

Any remedy is limited to providing relief to the employee, should be tailored as closely as possible to the specific violation(s) found, and should take into consideration the impact on any Employing Office. The Chief Judge and Employing Office (Respondent) must take appropriate

action to carry out the remedies ordered in the written decision, subject to any applicable policies and procedures.

Remedies that are *not* available include:

- payment of attorney's fees (except as authorized under the Back Pay Act);
- compensatory damages;
- punitive damages;
- overtime pay; and
- disciplinary action against an individual.<sup>2</sup>

## **F. Records**

At the conclusion of formal and informal proceedings under this Policy, all papers, files, transcripts, audio or visual recordings, and reports will be deposited with the court's EEO/EDR Coordinator, who will retain and secure the materials at least for the duration of the accused individual's employment with the court or 10 years, whichever is longer. No papers, files, transcripts, audio or visual recordings, or reports relating to a dispute will be filed in any employee's personnel folder, except as necessary to implement official personnel action.

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<sup>2</sup> 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 action against an individual. When there has been a finding of wrongful conduct in an EDR proceeding, an appointing official, or an official with delegated authority, should separately assess whether further action, in accordance with any applicable policies and procedures, is necessary to correct and prevent wrongful conduct and promote appropriate workplace behavior, such as:

- An apology to the Petitioner;
- Requiring counseling or training;
- Ordering no contact with the Petitioner;
- Reassigning or transferring an employee;
- Oral or written reprimand an employee who engaged in wrongful conduct;
- Issuing a suspension, probation, or demotion an employee who engaged in wrongful conduct; and/or
- Terminating the employment of an employee who engaged in wrongful conduct.

## **XIV. Family and Medical Leave**

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 Policy*.

## **XV. Worker Adjustment and Retraining Notification Rights**

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 that results from the absence of appropriated funds.

The term “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.

The term “mass layoff” means a reduction in force which—

- is not the result of an employing office closing, and
- results in an employment loss at the single site of employment during any 30-day period for (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 at least 500 employees (excluding any part-time employees).

*For extended text see 29 U.S.C. § 2101.*

## **XVI. Employment and Reemployment Rights of Members of the Uniformed Services**

The court 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.*



## **XVII. Occupational Safety and Health Protections**

Each Employing Office shall provide to its employees a place of employment that is free from recognized hazards that cause or are likely to cause death or serious physical harm to employees. Requests for formal dispute resolution that seek a remedy that is within the jurisdiction of the General Services Administration (“GSA”) or the United States Postal Service (“USPS”) to provide are not cognizable under this Policy. Such requests should be filed directly with GSA or the USPS as appropriate.

## **XVIII. Polygraph Tests**

No employee shall be required to take a polygraph test.

## **XIX. Whistleblower Protection**

Any Judge or employee with authority over personnel shall not take or threaten to take an adverse employment action against an employee who reasonably and in good faith discloses information to the appropriate federal law enforcement authority, a supervisor or managerial official of the Employing Office, a judicial officer of the court, or the Administrative Office of the United States Courts, about a violation of law, rule or regulation or other conduct which constitutes gross mismanagement or gross waste of funds or constitutes substantial and specific danger to public health or safety. This section applies only if such disclosure of information:

- is not specifically prohibited by law,
- 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
- does not reveal information that would endanger the security of any federal judicial officer.

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.

## **XX. Preparation of Annual Report**

The EEO/EDR Coordinator for each court will prepare an annual report for the year ending September 30. The report will describe any instances where significant achievements were made in providing equal employment opportunities, will identify any areas where improvements are needed, and will identify any factors inhibiting achievement of equal employment opportunity objectives. In addition, the annual report will indicate:

- The number of formal requests for dispute resolution initiated;
- The types of formal requests for dispute resolution initiated according to race, color, national origin, age, religion, sex, sexual orientation, gender identity or expression, veteran status, disability, or genetic information;
- The number of formal requests for dispute resolution resolved formally without a hearing; and
- The number of formal requests for dispute resolution resolved formally with a hearing.

The above information will not identify the names of the parties involved but will identify whether or not a judge was the subject of the matter. Upon approval of the court, this report will be submitted by the Chief Judge or Court Unit Executive to the Administrative Office of the United States Courts by November 30 of each year. A copy of the report will remain in the court and will be made available to the public upon request.

*Adopted - October 11, 2018; Revised – December 21, 2020*

**Addendum to the Policy on Equal Employment Opportunity, Discrimination,  
Harassment, and Employment Dispute Resolution for the  
United States Courts for the Southern District of Indiana**

Adopted October 11, 2018 – Amended January 25, 2021

**1. EEO/EDR Coordinators**

The Policy On Equal Employment Opportunity, Discrimination, Harassment, and Employment Dispute Resolution for the United States Court of Appeals for the Seventh Circuit (“Policy”) provides that the Chief Judge of each Court will designate an individual to serve as the Court’s EEO/EDR Coordinator. In accordance with this provision, Chief Judge Jane E. Magnus-Stinson of the District Court and Chief Judge Robyn L. Moberly of the Bankruptcy Court have named the following individuals as EEO/EDR Coordinators:

Mary Giorgio - - U.S. District Court  
James H. Robinson - - U.S. Bankruptcy Court  
Sharon Gracey - - U.S. Probation Office

The EEO/EDR Coordinators are obligated under the Policy to provide information to the judges and employees of the Courts regarding the rights and protections afforded under the Policy. In addition, the EEO/EDR Coordinators must advise the Chief Judge of the Seventh Circuit on designating EEO/EDR counselors – employees who agree to serve in that role and to receive specialized training in counseling other employees and in the procedures established by the Policy, including the formal EDR procedures – within each court unit. EEO/EDR counselors will be named separately, in conjunction with EEO/EDR training to be provided by the Seventh Circuit.

This specific designation is not meant to restrict any employee’s ability to report discrimination or harassment that he/she may have experienced or witnessed in the course of employment. For the Court to effectively implement the Policy, it is critical that all employees respond to and report discrimination, retaliation, and inappropriate sexual and other behavior covered by the Policy. Employees are encouraged to report any conduct which might amount to discrimination or harassment to either Court’s EEO/EDR Coordinator or to a designated EEO/EDR counselor within the Circuit.

## **2. Sample Request for Formal Dispute Resolution**

The sample complaint form, attached below, may be used by any employee to request Formal Dispute Resolution under the Policy. Alternatively, an employee may make a request on a form of their own creation, so long as the request includes the information listed by the Policy in Section XI.A (Formal Dispute Resolution Procedures; Request for Formal Dispute Resolution).

## COMPLAINT UNDER EEO/EDR POLICY

Filed under the procedures of the  
Equal Employment Opportunity/Employment Dispute Resolution Policy  
For the United States District Court, United States Bankruptcy Court, and the United  
States Probation Office for the Southern District of Indiana

\* \* \* \* \*

*Prior to completing this form, please refer to the Policy on Equal Employment Opportunity, Discrimination, Harassment, and Employment Dispute Resolution for the United States Court of Appeals for the Seventh Circuit ("Policy").*

Please complete this form legibly, and submit it to an EEO/EDR Coordinator designated in the Southern District of Indiana Addendum to the Policy.

1. Full name of person filing complaint: \_\_\_\_\_
2. Mailing address: \_\_\_\_\_  
\_\_\_\_\_
3. Home Phone: (    ) \_\_\_\_\_      Work Phone: (    ) \_\_\_\_\_
4. If you are a court employee, state the following:  
  
    Court unit in which employed: \_\_\_\_\_  
  
    Job Title: \_\_\_\_\_
5. Name and address of the employing office against whom this complaint is filed.  
(Under the terms of the Policy, all complaints must be filed against an "employing office", not an individual): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Identify the Chapter(s) of the Policy under which your complaint is being filed:

- ☐ Chapter IV-XI- Equal Employment Opportunity & Anti-Discrimination Rights
  - ☐ Race
  - ☐ Color
  - ☐ National Origin
  - ☐ Age
  - ☐ Religion
  - ☐ Gender/Sex (includes sexual harassment)
  - ☐ Sexual Orientation
  - ☐ Gender Identity or Expression
  - ☐ Veteran Status
  - ☐ Disability
  - ☐ Genetic Information
- ☐ Chapter XII - Family and Medical Leave Rights
- ☐ Chapter XIII - Worker Adjustment and Retraining Notification Rights
- ☐ Chapter XIV - Employment and Reemployment Rights of Members of the Uniformed Services
- ☐ Chapter XV - Occupational Safety and Health Protections
- ☐ Chapter XIV - Polygraph Tests
- ☐ Chapter XVII - Whistleblower Protection

7. Date(s) of alleged violation: \_\_\_\_\_

8. Please describe any attempts you have made to resolve this matter, either on your own or by making an informal report. To the extent you recall the approximate dates and nature of these attempts, please include that information. If you communicated with anyone

concerning your complaint either orally or in writing, please identify those persons. (If there is insufficient space below, you may attach additional pages.)

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9. Please summarize the actions or occurrences giving rise to your complaint. Explain in what way you believe your rights under the Policy were violated. Identify all persons who participated in this matter or who can provide relevant information concerning your complaint. (If there is insufficient space below, you may attach additional pages.)

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Please attach a copy of any documents that relate to your complaint, such as email or other written communications, application form, resume, letters, notices of discipline or termination, etc.

10. What corrective action do you seek from your complaint?

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11. Do you have an attorney or any other person who represents you in this matter?

☐ Yes

☐ No

If yes, please provide the following information concerning that person:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Work Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date