

U. S. DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI



Equal Employment Opportunity/  
Employment Dispute Resolution Plan

(As Adopted December 4, 2012)  
Effective for Complaints **Filed** on or after November 12, 2012

**EQUAL EMPLOYMENT OPPORTUNITY/  
EMPLOYMENT DISPUTE RESOLUTION PLAN**

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## ATTACHMENTS

- Procedure & Timetable for Reporting Wrongful Conduct and EDR Claims under the Equal Employment Opportunity/Employee Dispute Resolution Plan
- EDR Form 1 - EDR Incident Report Form
- EDR Form 2 - Request for Counseling
- EDR Form 3 - Request for Mediation
- EDR Form 4 - Complaint under EDR Plan

# **EQUAL EMPLOYMENT OPPORTUNITY/ EMPLOYMENT DISPUTE RESOLUTION PLAN**

## **CHAPTER I - GENERAL PROVISIONS**

### **§ 1 Preamble**

This Plan shall be known as the Equal Employment Opportunity/Employment Dispute Resolution Plan for the Southern District of Mississippi (EEO/EDR Plan). It is based on the model plan adopted by the Judicial Conference of the United States in order to provide rights and protections to employees of the United States courts that are comparable to those provided to legislative branch employees under the Congressional Accountability Act of 1995.

This Plan supersedes the previous version of the Fifth Circuit's Employment Dispute Resolution Plan and Model Equal Employment Opportunity Plan ("Model EEO Plan") that was adopted by this court on May 5, 1998, and re-adopted in revised form on October 3, 2002. Claims arising under Chapters II through VIII of this Plan shall be treated in accordance with the procedures set forth in Chapter X of this Plan. The duties of the court's EEO Coordinator will be assumed by the Employment Dispute Resolution Coordinator (established in Section 6 of Chapter X of this Plan); however, the dispute resolution duties assigned to the EEO Coordinator under the Model EEO Plan will be replaced by the dispute resolution procedures set forth in Chapter X of this Plan.

This Plan is to be implemented in the same manner as the Model EEO Plan. Any modification of this Plan must first be approved by the Judicial Council of the Fifth Circuit. The court will post this Plan on its internal and external websites. A copy of the Plan and any subsequent modifications shall be filed with the Administrative Office. The Court shall annually submit a report on the implementation of this Plan to the Administrative Office for inclusion in the Director's Annual Report to the Judicial Conference.

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

The EEO/EDR Plan is not intended to duplicate the protections provided for the resolution of complaints of judicial officer misconduct or disability under 28 U.S.C. §§ 351, et seq. and otherwise is intended to be the exclusive remedy of the employee relating to rights enumerated under the Plan.

## § 2 Scope of coverage

This Plan applies to all Article III judges and other judicial officers of the Southern District of Mississippi.

This Plan also applies to all employees of all units of the Southern District of Mississippi: district court, bankruptcy court, probation and pretrial services, judges' chambers staffs, court unit heads and their staffs, and bankruptcy administrators and their staffs.

## § 3 Definitions

For purposes of this Plan:

- A. The term "claim" means the filing of a Request for Counseling as set forth in Chapter X, which may be further pursued by the filing of a EEO/EDR Request for Mediation and a request for hearing.
- B. The term "employee" includes all individuals listed in § 2 of this Chapter, as well as applicants for employment and former employees, except as provided below. The term "employee" does not include interns or externs providing gratuitous service, applicants for bankruptcy judge or magistrate judge positions, private attorneys who apply to represent indigent defendants under the Criminal Justice Act, criminal defense investigators not employed by federal public defenders, volunteer counselors or mediators, or other individuals who are not employees of an "employing office" as that term is defined below.
- C. The term "employing office" includes all offices of the Southern District of Mississippi, including the offices of district court executives, clerks of court, chief probation officers, chief pretrial services officers, staff attorneys, bankruptcy administrators, and any such offices that might be created in the future. The court is the employing office of a judicial officer's chambers staff.
- D. The term "judicial officer" means a judge appointed under Article III of the Constitution, a United States bankruptcy judge, or a United States magistrate judge.
- E. The term "court" refers to the United States District Court for the Southern District of Mississippi.

#### § 4 Reporting -

Each court unit will prepare and submit the annual employment practices report required by the Administrative office of the United States, describing its efforts to provide equal employment opportunity and its activity in responding to EEO/EDR complaints.

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

#### § 1 General -

Discrimination against employees based on race, color, religion, sex (including pregnancy and sexual harassment), national origin, age (at least 40 years of age at the time of the alleged discrimination), and disability is prohibited. Harassment against an employee based upon any of these protected categories or retaliation for engaging in any protected activity is prohibited. All of the above constitute “wrongful conduct.” The rights and protections of Sections I through VIII of the this Plan shall also apply to employees.

#### § 2 Definition - The term “disability” means:

1. a physical or mental impairment that substantially limits one or more of the major life activities of an employee,
2. a record of such an impairment, or
3. being regarded as having such an impairment.

*See* 42 U.S.C. § 12102(1).

#### § 3 Special provision for probation and pretrial services officers - The age discrimination provision of § I of this Chapter shall not apply to the initial hiring or mandatory separation of probation and pretrial services officers and officer assistants. *See* Report of the Proceedings of the Judicial Conference of the United States (March 1991), pp. 16 - 17. Additionally, probation and pretrial services officers must meet all fitness-for-duty standards, and compliance with such standards does not, in and of itself, constitute discrimination on the basis of disability.

CHAPTER III - FAMILY AND MEDICAL LEAVE RIGHTS

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

CHAPTER IV - WORKER ADJUSTMENT  
AND RETRAINING NOTIFICATION RIGHTS

§ 1 **General** - No “employing office closing” or “mass layoff” (as defined in § 2 of this Chapter) may occur until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to employees who will be affected. This provision shall not apply to an employing office closing or mass layoff which results from the absence of appropriated funds.

§ 2 **Definitions**

- A. 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.
- B. The term “mass layoff” means a reduction in force which:
1. is not the result of an employing office closing; and
  2. results in an employment loss at the single site of employment during any 30-day period for:
    - a. (1) at least 33 percent of the employees (excluding any part-time employees); and  
(2) at least 50 employees (excluding any part-time employees);  
or
    - b. at least 500 employees (excluding any part-time employees).

*See 29 U.S.C. § 2101(a.)(3)*

CHAPTER V - EMPLOYMENT AND REEMPLOYMENT RIGHTS  
OF MEMBERS OF THE UNIFORMED SERVICES

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

CHAPTER VI - OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS

§ 1 **General.**

The court will work to furnish a reasonably safe place to work by reporting known hazards to the agency responsible for the buildings and by adopting reasonably safe operating practices. Claims that seek a remedy that is exclusively within the jurisdiction of the General Services Administration (“GSA”) or the United States Postal Service (“USPS”) to provide are not cognizable under this Plan; such requests should be filed directly with GSA or the USPS as appropriate.

CHAPTER VII - POLYGRAPH TESTS

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

CHAPTER VIII – WHISTLEBLOWER PROTECTION

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

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

by the latter employee, which that employee reasonably and in good faith believes evidences a violation of any law, rule, or regulation, or other conduct that constitutes

gross mismanagement, a gross waste of funds, or a substantial and specific danger to public health or safety, provided that such disclosure of information –

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

**§ 2 Definition** – For purposes of this Chapter, an “adverse employment action” means a termination, demotion, transfer, or reassignment; loss of pay, benefits, or awards; or any other employment action that is materially adverse to the employee’s job status, compensation, terms, or responsibilities, or the employee’s working conditions.

## CHAPTER IX - REPORTS OF WRONGFUL CONDUCT

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

Judges are encouraged to report wrongful conduct to the chief judge or the court’s Employment Dispute Resolution Coordinator (EDR Coordinator). Employees have a duty to report wrongful conduct to his or her supervisor or the EDR Coordinator as soon as possible, before the conduct becomes severe or pervasive. The employee’s supervisor shall make such report known to the court’s EDR Coordinator within two business days using the Incident Report form (EDR Form 1). Retaliation against any employee making a report of wrongful conduct is prohibited.

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

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

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

## CHAPTER X - DISPUTE RESOLUTION PROCEDURES

- § 1 **General procedure for consideration of alleged violations** - An employee who claims a denial of the rights granted under Chapters II through VIII of this Plan shall seek resolution of such claims through the procedures of this Chapter (and outlined in the document entitled Procedure and Timetable for Reporting Wrongful Conduct and EDR Claims). Generally, the process consists of:
- A. counseling and mediation;
  - B. hearing before the chief judge of the court (or a designated judicial officer) in which the alleged violation arises; and
  - C. review of the hearing decision under procedures established by the judicial council of the circuit.
- § 2 **Alleged violation by employee** - Before invoking a Request for Counseling an employee (to the extent feasible) is encouraged to bring his or her concerns to his or her supervisor or unit executive, unless the supervisor or unit executive is the alleged violator. In such a situation, the employee should bring such concerns directly to the EDR Coordinator. An employee alleging that any of the rights granted under the Model EEO Plan or this Plan have been violated, and who seeks relief under this Plan, must file a Request for Counseling with their court's EDR Coordinator in accordance with § 8 of this Chapter.
- § 3 **Alleged violation by judge** - Any employee alleging that a judge violated any rights granted under this Plan may file an EDR claim in accordance with this Plan. In such an instance, however, all the claims procedures of this Chapter shall be performed by the circuit council, either by members of the council directly or by persons designated to act on its behalf, which may include the chief judge of the circuit. If a judge becomes the subject of both an EDR claim and a judicial misconduct complaint under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351 - 364, the circuit judicial council or its designee, which may include the chief judge of the circuit, will craft a procedure for determining any common issues of fact and processing both complaints, subject to all requirements of the Act, the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and, as practicable, the EEO/EDR Plan. In so doing, the council or its designee, who may include the chief judge of the circuit, may determine that all or part of the EDR claim must be abated until action is taken on the judicial misconduct complaint.
- § 4 **Confidentiality** - The court or employing office shall protect the confidentiality of allegations filed under this Plan to the extent possible. However, information about

allegations filed under this Plan shall be shared on a need-to-know basis. Records relating to violations under this Plan shall be kept confidential on the same basis.

## § 5 General provisions and protections

- A. **Prohibition against retaliation** - Claimants under this Plan have the right to be free from retaliation because of filing a claim pursuant to this Plan. Likewise, any person who participates in the filing or processing of a claim, such as an employment dispute resolution coordinator, mediator, witness, representative, or co-worker, is also entitled to freedom from retaliation.
- B. **Right to representation** - The employing office and the individual invoking the dispute resolution procedures of this Plan 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.
- C. **Case preparation** - To the extent feasible, every individual invoking the dispute resolution procedures of this Plan may use a reasonable amount of official time to prepare his or her case, so long as it does not unduly interfere with the performance of his or her court duties.
- D. **Extensions of time** - The chief judge of the court, or other presiding judicial officer, may extend any of the deadlines set forth in this Chapter for good cause. Requests for extensions of time must be submitted in writing to the Chief Judge with a copy to the EDR Coordinator; the written request must detail reasons of the request.
- E. **Dismissal of claim** - On his or her own initiative or at the request of any party, the chief judge or presiding judicial officer may at any time in the proceedings, dismiss a claim on the grounds that it does not invoke violations of the rights or protections granted under the Model EEO Plan or this Plan, is untimely, is unduly repetitive of a previous claim, adverse action, or grievance, is frivolous, or fails to state a claim upon which relief may be granted.
- F. **Records** - At the conclusion of formal and informal proceedings under this Plan, all papers, files, and reports will be kept for five years by the court's EDR Coordinator. No papers, files, or reports relating to a dispute will be filed in any employee's personnel folder, except as necessary to implement an official personnel action.

**§ 6 Designation and duties of employment dispute resolution coordinator** - The Clerk of Court, or some other person specifically designated by the Court, shall serve as the EDR Coordinator. The Court may designate more than one EDR Coordinator. The duties of such persons shall include the following:

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

**§ 7 General disqualification provision** -

- A. If an employee believes a proposed counselor, mediator or hearing officer is disqualified, the employee must notify the EDR Coordinator in writing within five days of learning of the appointment; the notice must include enough facts to allow a decision to be made.
  - 1. If the disqualification applies to the EDR Coordinator, the chief judge will decide the issue of qualification.
  - 2. If the disqualification applies to the chief judge, the next senior judge will decide.
- B. If the chief judge is disqualified or is unavailable to serve, the reviewing official will be the next senior judge not disqualified or his or her designee.

**§ 8 Counseling**

- A. **Initiating a proceeding; formal Request for Counseling** - An employee who believes that his or her rights under Chapters II through VIII of this Plan have been violated must first complete a written Request for Counseling (EDR Form 2).

**B. Form and manner of requests - Requests for Counseling:**

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

**C. Procedures**

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

- D. **Duration of counseling period** - The period for counseling shall be 30 days (or a shorter period if counseling is concluded at an earlier date), beginning on the date that the Request for Counseling is received by the EDR Coordinator.
- E. **Conclusion of the counseling period and notice** - The EDR Coordinator shall notify the employee in writing of the end of the counseling period. As part of the notice, the EDR Coordinator shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the EDR Coordinator a EEO/EDR Request for Mediation in accordance with § 9 of this Chapter.

## § 9 Mediation

- A. **Initiation** - Within 15 days after receipt by the employee of the notice of the conclusion of the counseling period, the employee may file with the EDR Coordinator a Request for Mediation (EDR Form 3). The request must be made in writing and must state the claim(s) presented. The EDR Coordinator shall promptly provide a copy of the EEO/EDR Request for Mediation to the unit executive and the chief judge of the court. Failure to pursue mediation within 15 days will preclude further processing of the employee's claim under any other provisions of this Chapter.
- B. Procedures
  - 1. **Designation of mediator** - As soon as possible after receiving the Request for Mediation, the chief judge or EDR Coordinator shall designate a mediator and provide written notice of such designation to the employee and the person(s) alleged to have engaged in the wrongful conduct.
  - 2. **Who may serve as mediator** - Any person with the skills to assist in resolving disputes, except the court's EDR Coordinator, may serve as a mediator under this Plan. If the complaint alleges that a judge has violated the rights protected by this Plan, the mediator shall be a judge designated by the Chief Judge.
  - 3. **Purpose of mediation** - The mediator shall meet separately and/or jointly with the employee and his or her representative, if any, and the employing office to discuss alternatives for resolving a dispute, including any and all possibilities of reaching a voluntary, mutually satisfactory resolution.

4. **Confidentiality** - Any person or party involved in the mediation process shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the mediation process, except as necessary to consult with the parties or their representatives, and then only with notice to all parties.
  5. **Form of settlement** - The mediator shall reduce to writing any settlement achieved during the mediation process and secure the signature of the employee, his or her representative, if any, and the member of the employing office who is authorized to enter into settlement on the employing office's behalf.
- C. **Duration of mediation period** - The mediation period shall be 30 days (or a shorter period if mediation is concluded at an earlier date), beginning on the date the Request for Mediation is received. The employee is required to attend at least one mediation session. Thereafter, he or she may proceed by filing a Complaint form.
- D. **Conclusion of mediation period and notice** - If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the Request for Mediation, the EDR Coordinator shall provide the employee, the employee's representative, if any, and the employing office with written notice that the mediation period has concluded. The notice shall also inform the employee of his or her right to file a Complaint under § 10 of this Chapter.

## § 10 Complaint and hearing

- A. **Complaint** - Not later than 15 days after receiving notice of the end of the mediation period, an employee may file a Complaint form (EDR Form 4). The Complaint shall be in writing, shall identify the complainant and all involved parties and individuals, and shall set forth a short and plain statement of the complainant's claim and the relief or remedy being sought. Failure to pursue a claim within 15 days after the conclusion of mediation will preclude further processing of the employee's claim. Claims that were not presented in § 9(A.) may not be pursued. The respondent shall be the employing office which would be responsible for redressing, correcting or abating the violation(s) alleged in the Complaint. No individual shall be named as a respondent in the Complaint.
- B. **Hearing procedures**
1. **Presiding judicial officer** - If the chief judge or presiding judicial officer does not dismiss the Complaint, the chief judge or presiding judicial officer

shall hold a hearing on the merits of the Complaint unless he or she determines that no material factual dispute exists.

2. **Specific provisions** - The presiding judicial officer may provide for such discovery and investigation as is necessary. In general, the presiding judicial officer shall determine the time, place, and manner of conducting the hearing. However, the following specific provisions shall apply to hearings conducted under this Section:
  - a. the hearing shall commence no later than 60 days after the filing of the Complaint;
  - b. the complainant and the head of the employing office against which the Complaint has been filed must receive written notice of the hearing; such notice shall also be provided to the individual alleged to have violated rights protected by this Plan;
  - c. at the hearing, the complainant will have the right to representation, to present evidence on his or her behalf, and to cross-examine adverse witnesses; the employing office will have the right to representation and the right to present evidence on its behalf and to cross-examine adverse witnesses;
  - d. a verbatim record of the hearing must be kept and shall be the sole official record of the proceeding;
  - e. in reaching his or her decision, the chief judge or presiding judicial officer shall be guided by judicial and administrative decisions under the laws related to Chapters II through VII of this Plan and by decisions of the judicial council of the appropriate circuit under § 11 of this Chapter;
  - f. remedies may be provided in accordance with § 12 of this Chapter where the hearing officer finds that the complainant has established by a preponderance of the evidence that a right protected by this Plan has been violated;
  - g. the final decision of the chief judge or presiding judicial officer must be issued in writing not later than 30 days after the conclusion of the hearing; and

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

**§ 11 Review of decision** - A party or individual aggrieved by a final decision of the chief judge or presiding judicial officer, or by a summary dismissal of the Complaint, may petition for review of that decision under procedures established by the judicial council of the circuit. Failure to pursue a review of decision within 30 days will preclude further action. Any review will be conducted by a judicial officer(s), based on the record created by the hearing officer, and shall be affirmed if supported by substantial evidence.

**§ 12 Remedies**

- A. Where judicial officers acting pursuant to §§ 10 or 11 of this Plan find that a right protected by this Plan has been violated, they may order a necessary and appropriate remedy. A remedy may be directed at correcting a past violation, prospectively insuring compliance with the rights protected by this Plan, or both. A remedy shall be tailored as closely as possible to the specific violation involved.
- B. Remedies which may be provided to successful complainants under this Plan include, but are not limited to:
  - placement of an employee in a position previously denied;
  - placement in a comparable alternative position;
  - reinstatement to a position from which the employee was previously removed;
  - prospective promotion to a position;
  - 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; and

- accommodation of disabilities through the purchase of specialized equipment or the restructuring of duties and work hours, or other appropriate means.

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

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

**§ 13 Record of final decisions** - Final decisions under this Plan shall be made available to the public in accordance with procedures established by the judicial council of the circuit.

**PROCEDURE AND TIMETABLE FOR REPORTING  
WRONGFUL CONDUCT AND EDR CLAIMS  
UNDER THE EQUAL EMPLOYMENT OPPORTUNITY/  
EMPLOYEE DISPUTE RESOLUTION PLAN**

- I. Pursuant to Chapter IX of the Court's Equal Employment Opportunity/Employment Dispute Resolution Plan (hereinafter the Plan), an employee is encouraged to report wrongful conduct to his/her supervisor as soon as possible. However, **a report of wrongful conduct is NOT the same as initiating or filing a claim under the Plan.** Allegations of wrongful conduct are investigated and employees found to have engaged in wrongful conduct, as defined in the Plan, may be subject to disciplinary action. Retaliation against employees making a report of wrongful conduct is prohibited.

Procedures for reporting wrongful conduct are:

*Employee reports wrongful conduct to supervisor or EDR Coordinator*



*If said wrongful conduct report is submitted to supervisor,  
the supervisor shall file an incident report (EDR Form 1)  
with the EDR Coordinator within two business days*



*EDR Coordinator shall promptly notify the chief judge,  
the unit executive and the human resources manager of any report*

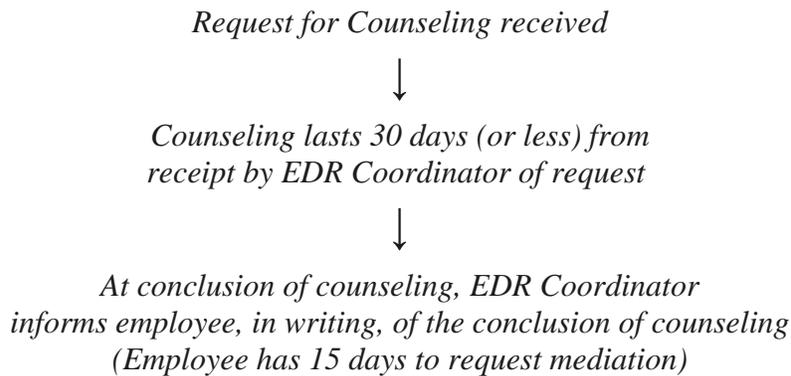


*The Chief Judge and/or Unit Executive shall ensure  
that said allegations are appropriately investigated by  
either the human resource manager or other designated person.*

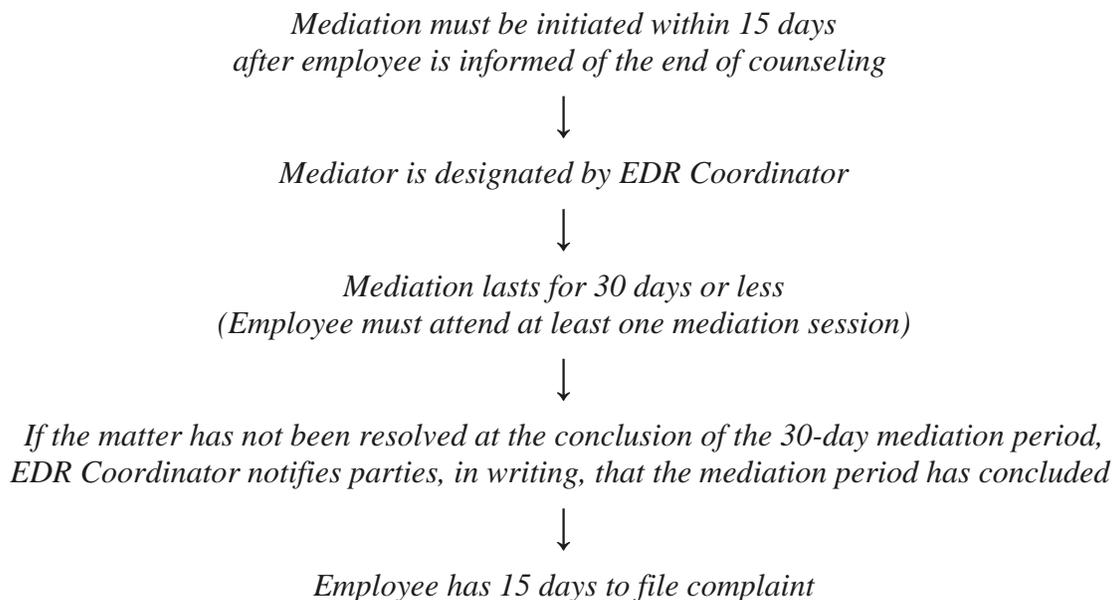
Individuals involved in the investigation are required to protect the confidentiality of the allegations of wrongful conduct to the extent possible.

- II. Pursuant to Chapter X of the Court’s Equal Employment Opportunity/Employment Dispute Resolution Plan (hereinafter the Plan), an employee who claims a denial of rights granted in Chapters II through VIII of the Plan may seek resolution of such claim through the Dispute Resolution Procedures as set forth in Chapter X of the Plan. Such process begins with a Request for Counseling, followed by a period of Mediation. If the matter is not resolved through either counseling or mediation, then said employee may file a written complaint for consideration of the chief judge or designated presiding judicial officer.

### **COUNSELING**



### **MEDIATION**



## COMPLAINT

*Complaint must be filed within 15 days  
after mediation ends*



*Chief Judge or designee will review complaint and  
may either dismiss complaint (if frivolous) or move forward*



*A hearing on the merits shall be held unless the presiding judicial officer  
determines that no material factual dispute exists; said hearing must be  
no later than 60 days after Complaint was filed.  
A verbatim record of the hearing must be kept.*



*A written decision must be filed  
within 30 days of the conclusion of the hearing*



*Said decision may be appealed to judicial council of the circuit*

U. S. DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI

**EDR INCIDENT REPORT FORM**

An employee has a duty to report wrongful conduct (as defined in Chapter II of the EDR Plan) to his or her supervisor as soon as possible. When reported, the employee's supervisor shall make such report known to the Court's Employment Dispute Resolution Coordinator (EDR coordinator) on this form within two business days. Confidentiality of allegations of wrongful conduct shall be protected and said allegations shall be investigated in accordance with the Plan.

A person reporting an incident or submitting an Incident Report will not suffer retaliation.

This report is NOT the same as initiating or filing a claim under the EDR plan; an employee who wishes to file an EDR claim relating to alleged wrongful conduct as defined in Chapter II of the EDR Plan must follow the procedures set forth in Chapter X of the Plan.

1.	Name of person making report of possible EEO/EDR Plan Violation	
2.	Name and job title of person accused of wrongful conduct	
3.	Date of reported incident(s)	
4.	Describe below the wrongful conduct you believe occurred and other pertinent events and facts	
5.	Has the individual making the report been advised of his or her rights under the Court's EEO/EDR Plan ?	
		<input type="checkbox"/> yes <input type="checkbox"/> no

Date submitted: \_\_\_\_\_

\_\_\_\_\_  
*Name of person making report*

\_\_\_\_\_  
*Signature of person making report*

Date Received: \_\_\_\_\_

\_\_\_\_\_  
*Signature of EDR Coordinator*

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

Case File No. \_\_\_\_\_

U. S. DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI

**REQUEST FOR COUNSELING**

NAME OF PERSON REQUESTING COUNSELING: \_\_\_\_\_

HOME ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

HOME PHONE: \_\_\_\_\_ WORK PHONE: \_\_\_\_\_

1. Are you a current employee of the court/office?  yes  no

If yes, please state the following:

Court/office in which you are currently employed: \_\_\_\_\_

\_\_\_\_\_

Date of appointment to current position title: \_\_\_\_\_

Current position job title: \_\_\_\_\_

2. Are you a former employee of the court/office?  yes  no

If yes, please state the following:

Court/office in which you were last employed: \_\_\_\_\_

\_\_\_\_\_

Date of termination from court/office: \_\_\_\_\_

Position job title when last employed: \_\_\_\_\_

3. Are/were you an applicant for a court/office position?  yes  no

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

Case File No. \_\_\_\_\_

If yes, please state the following:

Court/office to which you submitted application:: \_\_\_\_\_

Date of application for court/office position: \_\_\_\_\_

Position Job Title for which you applied: \_\_\_\_\_

Please provide the date of alleged incident or decision giving rise to this dispute:

\_\_\_\_\_

4. Identify the chapter/sections of the EEO Plan under which your request for counseling is being made:
- a. Chapter II - Equal Employment Opportunity and Anti-Discrimination Rights
    - Race
    - Color
    - Religion
    - Gender/Sex (including sexual harassment)
    - National Origin
    - Age
    - Disability
    - Other: \_\_\_\_\_
  - b. Chapter III - Family and Medical Leave Rights
  - c. Chapter IV - Worker Adjustment and Retraining Notification Rights
  - d. Chapter V - Employment and Reemployment Rights of members of the Uniformed Services
  - e. Chapter VI - Occupational Safety and Health Protections
  - f. Chapter VII - Polygraph tests
  - g. Chapter VIII - Whistleblower Protection

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

Case File No. \_\_\_\_\_

6. Please summarize the actions or occurrences giving rise to this dispute and refer to the appropriate chapter(s) of this court's EDR Plan.

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(Attach copies of any documents that relate to the alleged incident or decision giving rise to this dispute.)

7. What corrective action do you seek in this matter?

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Request for counseling submitted by:

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

REQUEST FOR COUNSELING WAS RECEIVED BY EDR COORDINATOR ON THE

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Signature of EDR Coordinator*

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

Case File No. \_\_\_\_\_

### DISPOSITION OF REQUEST FOR COUNSELING

1. Counseling was performed by: \_\_\_\_\_
2. Dates of Counseling: \_\_\_\_\_
3. Describe any action taken by the EDR Coordinator as a result of counseling:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Has employee been informed of his/her rights and responsibilities under the EEO/EDR Plan of the Southern District of Mississippi?  

yes       no

\_\_\_\_\_  
*EDR Coordinator's signature*

\_\_\_\_\_  
*Date*

5. Please indicate whether or not you are satisfied with the outcome of counseling session?  

yes       no
6. My signature below acknowledges that I understand that the counseling period is concluded and that if I am not satisfied with the outcome of the counseling session(s), I may pursue the claim by submitting an EEO/EDR Request for Mediation form in accordance with §9 of Chapter X of the court's EEO/EDR Plan. I understand that the Request for Mediation must be filed within 15 days after receipt of this notice and must be made in writing using the Request for Mediation form (*EDR Form 3*).

\_\_\_\_\_  
*Signature of individual requesting counseling*

\_\_\_\_\_  
*Date*

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

Case File No. \_\_\_\_\_

U. S. DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI

**REQUEST FOR MEDIATION**

The request for mediation must be filed in writing within 15 days of receipt of the notice of the end of the counseling period. You must participate in mediation before you may request a hearing on your claim(s). If you do not pursue mediation, you will be precluded from further processing your claim(s).

The period of mediation shall run for 30 days from the date the Request for Mediation is received. The mediation period may be shorter if the process is concluded earlier. An employee must attend at least one mediation session.

If the matter has not been resolved at the end of the 30-day period of mediation, the EDR Coordinator will notify the employee and other related parties of the end of the mediation period.

A person submitting a request for mediation will not suffer retaliation.

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

Case File No. \_\_\_\_\_

### REQUEST FOR MEDIATION

NAME OF PERSON REQUESTING MEDIATION: \_\_\_\_\_

HOME ADDRESS: \_\_\_\_\_

\_\_\_\_\_

Home Phone : \_\_\_\_\_ Work Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

State the claims to be presented to the mediator. Claims not presented for mediation may not be pursued further. (Use attachment if necessary).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Request for mediation submitted by:

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

REQUEST FOR MEDIATION WAS RECEIVED BY EDR COORDINATOR ON THE \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Signature of EDR Coordinator*

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

Case File No. \_\_\_\_\_

DISPOSITION OF REQUEST FOR MEDIATION

1. Mediation was performed by: \_\_\_\_\_

2. Dates of Mediation: \_\_\_\_\_

3. Describe any action taken by the Mediator or EDR Coordinator as a result of mediation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Has the individual who requested mediation been informed of his/her rights and responsibilities under the EEO/EDR Plan of the Southern District of Mississippi?

yes

no

\_\_\_\_\_  
*EDR Coordinator's signature*

\_\_\_\_\_  
*Date*

5. Please indicate whether or not you are satisfied with the outcome of mediation.

yes

no

6. My signature below acknowledges that I understand that the mediation period is concluded and that if I am not satisfied with the outcome of the mediation, I may pursue the claim by submitting an official Complaint in accordance with §9 of Chapter X of the court's EEO/EDR Plan. The Complaint must be filed within 15 days after receipt of this notice and must be made in writing using the EEO/EDR Complaint form (*EDR Form 4*).

Failure to file a Complaint will preclude further processing of this claim.

\_\_\_\_\_  
*Signature of individual requesting mediation*

\_\_\_\_\_  
*Date*

### COMPLAINT UNDER EDR PLAN

Submitted under the Procedures of  
the Employment Dispute Resolution Plan  
for the Southern District of Mississippi

Prior to completing this form, please refer to the Employment Dispute Resolution Plan for the Southern District of Mississippi.

This form must be submitted no later than 15 days after receiving notice of the end of the mediation period. Please attach a copy of the completed REQUEST FOR COUNSELING FORM and the REQUEST FOR MEDIATION FORM filed in connection with this matter. Please submit this form and all attachments to your court's EDR Coordinator.

Date Complaint Submitted:	
Full Name of Complainant:	

	Name and Title	Court Unit
1. Name of person (s) alleged to have violated your rights under the Court's EEO/EDR Plan		

2. Include a brief and plain statement of the violations of your rights under the Court's EEO/EDR plan that you believe occurred. **Do not include any claims you did not pursue in mediation.** (Attach additional sheets if needed.)

Attach copies of any documents that relate to your complaint, such as application form, resume, letters, notices of discipline or termination, as well as copies of the completed REQUEST FOR COUNSELING and REQUEST FOR MEDIATION forms.)

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

3. What relief or remedies do you seek?

4. Date(s) of alleged violation	
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5. Date on which counseling was requested:	
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6. Date on which counseling concluded:	
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7. Date on which mediation was requested:	
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8. Date on which mediation concluded:	
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9. Do you have an attorney or any other person who represents you in this matter?	
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If yes, provide name, address, phone numbers for that person	
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I affirm that the information provided in this complaint is true and correct to the best of my knowledge.

\_\_\_\_\_  
*Signature of Complainant*

\_\_\_\_\_  
*Date*