

**EQUAL EMPLOYMENT OPPORTUNITY PLAN AND  
EMPLOYMENT DISPUTE RESOLUTION PLAN FOR THE  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
CHAMBERS STAFF  
CLERK'S OFFICE  
OFFICIAL COURT REPORTERS  
PRETRIAL SERVICES  
PROBATION OFFICE**

**CHAPTER I - GENERAL PROVISIONS**

**§ 1 Policy Statement**

The United States District Court for the Northern District of Illinois is an equal opportunity employer and is committed to equal opportunity for all employees and applicants. The U.S. District Court recruits, hires, trains, promotes, pays, and administers all personnel actions without regard to race, color, national origin, age (at least 40 years of age at the time of the alleged discrimination), religion, sex (including pregnancy, childbirth, and medical conditions related to pregnancy, childbirth, or breastfeeding), sexual orientation, gender, gender identity or expression, military or veteran status, mental or physical disability, genetic information, ancestry, marital status, citizenship status (subject to the limitations set forth in the Guide to Judiciary Policy, Vol. 12 Ch. 5, § 515), or any other characteristic or status protected by applicable law. The U.S. District Court interprets these protected characteristics/statuses broadly to include both the actual status and also any perceptions and assumptions made regarding these statuses.

This policy and commitment applies to all areas of employment, including recruitment, testing, screening, hiring, selection for training, upgrading, transfer, demotion, layoff, discipline, termination, compensation, benefits, and all other privileges, terms, and conditions of employment. This policy and the law prohibit employment discrimination and harassment against any employee, intern/extern, or interviewed applicant on the basis of any legally protected characteristic or status outlined above.

The U.S. District Court is committed to the practice of equal employment opportunity and will not tolerate intimidation or retaliation against employees, interns/externs or applicants because they have engaged in or may engage in filing a complaint of discrimination, harassment or retaliation; assisting or participating in an investigation; opposing any act or practice made unlawful by any applicable law; or for exercising any other legally protected right.

This Plan supersedes any other EEO Model Plan in its entirety. At the direction of the Full Court, this Plan was adopted and implemented on January 15, 2019, and approved by the Seventh Circuit Judicial Council on March 1, 2019. A copy of this Plan and any subsequent modifications were filed with the Administrative Office of the United States Courts ("the Administrative Office"). The court shall annually submit a report on the

implementation of its plan to the Administrative Office for inclusion in the Director's Annual Report to the Judicial Conference.

Please see the Policy on Equal Employment Opportunity, Discrimination, Harassment, and Employment Dispute Resolution for the United States Court of Appeals for the Seventh Circuit. In addition, please see the Codes of Conduct, Human Resources Manual, Employee Relations Plan, Social Media and Social Networking Policy and other policies for further information and guidance. These policies further allow the Court to ensure a proper environment for all.

The EEO/EDR Plan is not intended to duplicate the protections provided for the resolution of complaints of judges' misconduct or disability under 28 U.S.C. §§ 351-362 and otherwise is intended to be the exclusive remedy of all covered persons relating to rights enumerated under the Plan.

## **§ 2 Scope of Coverage**

This Plan applies to all Article III judges, magistrate judges and Clerk of the United States District Court for the Northern District of Illinois ("the Clerk of Court"), as well as the United States for the Northern District of Illinois Probation and Pretrial Services Offices. The Plan also applies to all current and former (within 180 days of employment) employees of the district court, court unit heads and their staff, judicial law clerks and judicial assistants, court reporters, interns and externs, and interviewed applicants for positions other than district judge.

While not having rights under the Plan, the U.S. District Court expects anyone who is in the courthouse or has business with the Court to conduct themselves in a manner consistent with Chapter II below. This Plan is not intended to supersede the provisions for resolving complaints of judges' misconduct or disability under 28 U.S.C. §§ 351-362. Those are addressed through a judicial misconduct complaint.

## **§ 3 Definitions**

For purposes of this Plan:

- A. The term "employing office" includes all offices of the United States District Court for the Northern District of Illinois, including Clerk of Court, Chief Probation Officer, Chief Pretrial Services Officer, staff attorneys, and any offices that might be created in the future. The court is the employing office of a judge's chambers staff and Official Court Reporters who are also covered under this Plan.
- B. The terms "Court," "court," and "U.S. District Court," refer to the District Court for the Northern District of Illinois and court units in which is located the employing office that would be responsible for redressing, correcting or abating the violations alleged in the complaint.

## **CHAPTER II - ANTI-DISCRIMINATION/ANTI-HARASSMENT**

### **§ 1 Commitment to Non-Discrimination and Non-Harassment**

The Court expects every individual to show respect for all of our colleagues, employees, and vendors. Professional conduct is consistent with the Court's mission and minimizes disputes. Accordingly, this Plan forbids any unwelcome conduct that is based on an individual's race, color, national origin, age (at least 40 years of age at the time of the alleged discrimination), religion, sex (including pregnancy, childbirth, and medical conditions related to pregnancy, childbirth, or breastfeeding), sexual orientation, gender, gender identity or expression, military or veteran status, mental or physical disability, genetic information, ancestry, marital status, citizenship status (subject to the limitations set forth in the Guide to Judiciary Policy, Vol. 12 Ch. 5, § 515), or any other protected characteristic or status of an individual or that individual's associates or relatives. We interpret these protected characteristics and statuses broadly to include both the actual status and also any perceptions and assumptions made regarding these statuses. The Court is thus committed to providing a work environment that is free of unlawful discrimination, including harassment that is based on any legally protected characteristic or status. The Court will not tolerate any form of discrimination, harassment or other conduct that violates this Plan.

### **§ 2 Prohibited Conduct**

The conduct prohibited by this Plan, whether verbal, physical, or visual, includes any discriminatory employment action and any unwelcome conduct that is inflicted on someone because of that individual's protected status. Among the types of unwelcome conduct prohibited by this Plan are epithets, slurs, negative stereotyping, intimidating acts, and the display, circulation, or posting of written or graphic materials that show or create hostility toward individuals because of their protected status. Bullying is also prohibited, regardless of whether it is based on a protected status. The Court prohibits this conduct in the workplace, even if the conduct is not sufficiently severe or pervasive to constitute unlawful harassment.

### **§ 3 Discrimination and Harassment**

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, gender identity or expression, military or veteran status, mental or physical disability, genetic information, ancestry, or citizenship status.

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, gender identity or expression, military or veteran status, mental or physical disability, genetic information, ancestry, or citizenship status 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.

Harassing conduct based on gender, gender identity, and gender expression often is sexual in nature but sometimes is not. This Plan forbids gender-based harassment regardless of whether the offensive conduct is sexual in nature. Any unwelcome conduct is also forbidden by this Plan regardless of whether the individual engaged in harassment and the individual being harassed are of the same or are of different genders.

This Plan forbids gender-based harassment regardless of whether it rises to the level of a legal violation. Examples of gender-based harassment forbidden by this Plan (whether in conversation or through electronic or other means) include (1) offensive sex-oriented verbal kidding, teasing or jokes, (2) repeated unwanted sexual flirtations, advances or propositions, (3) verbal abuse of a sexual nature, (4) graphic or degrading comments about an individual's appearance or sexual activity, (5) offensive visual conduct, including leering, making sexual gestures, the display of offensive sexually suggestive objects or pictures, cartoons or posters, (6) unwelcome pressure for sexual activity, (7) offensively suggestive or obscene letters, notes or invitations, (8) offensive physical contact such as patting, grabbing, pinching, or brushing against another's body, and (9) sexual favoritism.

Unwelcome sexual advances, requests for sexual favors, and other verbal, physical or visual conduct based on sex constitute unlawful sexual harassment when (1) submission to or such conduct becomes an implicit or explicit term or condition of employment, (2) submission to or rejection of the conduct is used as the basis for any employment decision, or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

This Plan also expressly prohibits behavior that harasses or discriminates on the basis of any factor protected by law. Forms of such harassment or discrimination can include physical, verbal, and nonverbal behavior that harasses, 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 (1) epithets, threats, slurs, or off-color jokes, and (2) drawings, cartoons, or behavior that is insulting, derogatory, or ridiculing of persons based on their legally protected status.

This Plan is intended to provide a means for addressing unwelcome conduct regardless of whether it meets the legal standard for severe or pervasive conduct. Further, regardless of its form or motive, bullying, arbitrary harassment, or inappropriate conduct that fails to treat colleagues with respect undermines the court's ability to do its job for the public and should not be tolerated.

#### **§ 4     Avoiding Prohibited Conduct**

Everyone is expected to avoid any behavior or conduct that could reasonably be interpreted as prohibited harassment; no individual, not even the highest-ranking individuals in the Court, is exempt from the requirements of this Plan.

## **§ 5 Reporting Prohibited Conduct**

Discriminatory, harassing, retaliatory or other inappropriate behavior covered by this Plan often can occur without witnesses. What one person may regard as offensive, another may not. For the court to implement this Plan effectively, it is critical that all employees respond to and report discrimination, retaliation, and inappropriate sexual and other behavior covered by this Plan. 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 directly to the Chief Judge of the United States District Court for the Northern District of Illinois (“the Chief Judge”), the EEO Liaison Judge, the Clerk of the Court, the Manager of Judicial Services, the EEO/EDR Coordinator or any other Human Resources officer, the ILND EEO/EDR Counselor, or an individual outside of the judiciary who serves as the External EEO Counselor. (*See* Appendix A for contact information.) These are the individuals authorized by this Plan to receive and act upon complaints of discrimination, harassment, and retaliation on behalf of the Court. Complaints may also be made to the confidential reporting phone line at 312-435-5606. This Plan does not require reporting discrimination, harassment, or retaliation directly to any individual who is creating the harassment, discrimination, or retaliation.

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, General Services Administration, or local law enforcement, the Chief Judge 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 Chief Judge within a reasonable time.

If you have reason to believe that another colleague has been subjected to or has engaged in discrimination, 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 report discrimination or other inappropriate behavior promptly and 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 court will investigate promptly a report of discrimination or inappropriate sexual or other behavior. Reports and investigations will be handled in a confidential manner, consistent with the need to investigate and take corrective action.

Any manager, supervisor, or judge who is aware of conduct inconsistent with this Plan or who receives a report of conduct inconsistent with this Plan must report it immediately to the Chief Judge, or EEO Liaison Judge, or the Clerk of the Court, or the EEO/EDR Coordinator or any other Human Resources officer and has an obligation to take effective remedial action.

## **§ 6 The Court's Response**

All reports describing conduct that is inconsistent with this Plan will be investigated promptly and effectively. To that end, parties involved in the situation (including the reporting party, anyone identified as the target of the behavior (if different than the reporting party) and anyone who allegedly violated this Plan will be offered an opportunity to be interviewed or to otherwise respond to a report under this Plan. The Court will take further appropriate action once the report has been investigated.

If an investigation reveals a violation of this Plan, or other inappropriate conduct has occurred, then the Court will take corrective action, including, but not limited to, discipline up to and including dismissal, reassignment, changes in reporting relationships, training, or other measures the Court deems appropriate under the circumstances, regardless of the positions of the parties involved. The Court may take corrective action for any inappropriate conduct discovered in investigating reports made under this Plan, regardless of whether the conduct amounts to a violation of law or even a violation of this Plan. If the person who engaged in harassment is not employed by the Court, then the Court will take whatever corrective action is reasonable and appropriate under the circumstances.

If a complaint is received alleging conduct inconsistent with this Chapter by a judge of this Court, the Chief Judge will also inform the Chief Judge of the Seventh Circuit of the complaint.

## **§ 7 Commitment to Non-Retaliation**

The Court forbids any individual treating any other individual adversely for reporting harassment, discrimination, or retaliation, for assisting another individual in making a report, for cooperating in an investigation into such alleged conduct, or for proceeding to/participating in a hearing. All individuals who experience or witness any conduct they believe to be retaliatory should follow the reporting procedures described in this Plan.

## **§ 8 Confidentiality**

The court 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 reasonably possible. The court 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.

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 under this Plan.

## **§ 9 Disability**

The term “disability” means:

- A. A physical or mental impairment that substantially limits one or more of the major life activities of an employee,
- B. A record of such an impairment, or
- C. Being regarded as having such an impairment.

For extended text see 42 U.S.C. § 12102(2).

## **§ 10 Reasonable Accommodations**

The Court prohibits discrimination against qualified individuals with a disability. The Court will provide reasonable accommodation(s) to enable qualified individuals with a disability to perform the essential functions of their jobs, and to enable individuals to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

The Court will engage in an interactive process with an applicant or employee who requests an accommodation and make an individualized assessment of the request. An accommodation will be provided in cases where the accommodation would not directly threaten someone’s health or safety or create an undue hardship. An undue hardship is an action requiring significant difficulty or expense.

**Examples of possible accommodations include but are not limited to:**

- Making existing facilities physically accessible to a disabled applicant or employee
- Job restructuring
- Part-time or modified work schedules
- Acquiring or modifying equipment or devices
- Leave of absence for a defined period of time and an extension of leave
- Modification or adjustment to the job application process
- Reassignment of an employee to a vacant position for which they are qualified.

### **Procedures and Administration**

Applicants and employees requiring accommodation(s) should advise the Human Resources Office in writing. Accommodation requests received by a supervisor or manager should be referred to the Human Resources Office.

In addition, individuals seeking a reasonable accommodation may be required to provide medical verification of their need for accommodation by submitting medical information to the Human Resources Office. All medical information received will be treated as confidential in accordance with Court policy and any applicable laws. Failure to submit requested documentation may affect the Court's decision to grant or deny the requested accommodation.

Upon receiving a request for reasonable accommodation, the Court will engage in an interactive process with the applicant or employee to identify potential accommodations. If the accommodation is reasonable and will not directly threaten someone's health or safety or impose an undue hardship, the Court will grant the accommodation. The Court may also propose and, where appropriate select, an alternative accommodation that allows the employee to perform the essential functions of their position. Providing an employee with a reasonable accommodation does not excuse the employee from meeting the job requirements and performance standards in their position.

#### **§ 11 Special Provision for Probation and Pretrial Services Officers**

The age discrimination provision of Section 1 of this Chapter shall not apply to the initial hiring of probation and pretrial services officers. *See* Report of the Proceedings of the Judicial Conference of the United States (March 1991), pp. 16-17.

#### **§ 12 Personnel Practices**

- A. Recruitment - Each employing office will make reasonable efforts in the recruitment process to obtain a pool of qualified applicants that reflects the make-up of all such persons in the relevant labor market and will publicize all vacancies internally and/or externally as appropriate. It is important to note that certain positions are not required to be publicly posted. Examples of these positions are judicial assistant and law clerk.
- B. 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.
- C. Promotion - Each employing office will promote employees according to their experience, training, and demonstrated ability to perform duties of a higher level. The Court strives to promote internal candidates where appropriate.
- D. 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, details and outside training.



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

Title II of the Family and Medical Leave Act of 1993, 5 U.S.C. § § 6381 et. seq., applies to court employees in the manner prescribed in Volume 12, Chapter 9, Section 920.20.35, of the Guide to Judiciary Policies and Procedures. Please see the Court's Human Resources Manual for further information.

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

#### **§ 1 General**

No "employing office closing" or "mass layoff" (as defined in Section 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 that 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 that--
  - 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).

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

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

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**

Each employing office shall provide for 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. Complaints 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 Plan, such requests should be filed directly with GSA or the USPS as appropriate.

## **CHAPTER VII - POLYGRAPH TESTS**

No employee shall be required to take a polygraph test.

## **CHAPTER VIII - WHISTLEBLOWER PROTECTION**

### **§ 1 General**

Any judge or other 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, about a violation of law, rule or regulation, workplace misconduct, including harassment, or other conduct that 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:

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 - OPTIONS FOR RESOLUTION

### § 1 General

If you believe that you have been subjected to discrimination, harassment, or retaliation for reporting discrimination or harassment, 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. Your options include:

- A. **Requests for Advice:** You may, as an initial matter, contact the Chief Judge, the EEO Liaison Judge, the Clerk of the Court, the Manager of Judicial Services, the EEO/EDR Coordinator or other Human Resources officer, the ILND EEO/EDR Counselor, or the External EEO Counselor to request advice about your situation. Any request for advice shall be kept confidential, and the individual who receives a request for advice shall provide an explanation of the informal and formal options for pursuing the matter under this Plan.
- B. **Informal Reports of Wrongful Conduct:** You also may report wrongful job-related conduct to the Chief Judge, the EEO Liaison Judge, the Clerk of the Court, the Manager of Judicial Services, the EEO/EDR Coordinator or any other Human Resources officer, the ILND EEO/EDR Counselor, or the External EEO 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 Chief Judge, the EEO Liaison Judge, the Clerk of the Court, the Manager of Judicial Services, the EEO/EDR Coordinator or any other Human Resources officer, the ILND EEO/EDR Counselor, or the External EEO 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. Informal investigations not involving judicial officers shall be kept as confidential as reasonably possible under this Plan.

- C. **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 Chapter X.

- D. 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.

## **CHAPTER X - FORMAL DISPUTE RESOLUTION PROCEDURES**

### **§ 1 General Procedure for Consideration of Alleged Violations**

An individual who claims a denial of the rights granted under Chapters II through VIII of this Plan may seek resolution of such claims through the procedures of this Chapter. For complaints or concerns under Chapter II, reports may be made either informally or by filing a Complaint under this Chapter.

A. Complaint:

1. No later than 180 days after receiving notice of the end of the informal process, or in lieu of the informal process, an employee may file a complaint with the office of the Chief Judge. The complaint shall be in writing, and 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.
2. If a complaint is received alleging conduct inconsistent with this Plan by a judge of the Court, the Chief Judge will also inform the Chief Judge of the Seventh Circuit of the complaint.

B. Hearing procedures:

1. 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. The matter shall be designated "In the Matter of [Employing Office]" and given an appropriate number for purposes of record-keeping.
2. The Chief Judge or designated judge, collectively the "presiding judge," acting as the hearing officer, shall hold a hearing on the merits of the complaint unless he or she determines that no material factual dispute exists, or determines that the complaint is frivolous or not within the scope of this Plan.

3. If a complaint is made against the chief judge, the other voting members of the Executive Committee of the District Court (*see* IOP 02) shall act as the chief judge pursuant to this Plan.
4. In general, the presiding judge shall determine the time, place, and manner of conducting the hearing. However, the following specific provisions shall apply to hearings conducted under this Section:
  - a. the hearing shall be commenced no later than 30 days after the filing of the complaint;
  - b. the complainant 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 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 witnesses; the employing office will have the right to present evidence on its behalf and to cross-examine witnesses;
  - d. a verbatim record of the hearing must be kept and shall be the sole official record of the proceeding;
  - e. in reaching a decision, the presiding judge shall be guided by the judicial and administrative decisions under the laws related to Chapters II through VIII of this Plan;
  - f. remedies may be provided in accordance with Section 3 of this Chapter where the presiding judge finds that the complainant has established by a preponderance of the evidence that a substantive right protected by this Plan has been violated;
  - g. the final decision of the presiding judge must be issued in writing no 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;
  - h. all parties, or any aggrieved individual, shall have the right to written notice of any action taken as a result of a hearing; and
  - i. confidentiality - 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, or as otherwise allowed by law. A written record of such contacts must be kept and made available for review by the affected person(s).

- C. A final decision of the presiding judge is subject to review by a three-judge panel for recommendation to the entire Circuit Council. Such a panel shall be chosen from among Circuit Council members who are not part of the court involved in the matter. A decision by the Circuit Council is final. Extension of time - The presiding judge may extend any of the deadlines set forth in this Chapter for good cause. All extensions of time granted will be made in writing and become part of the record.
- D. Prohibition against retaliation - Complainants under this Plan have the right to be free from retaliation, coercion, or interference because of filing a complaint pursuant to this Plan. Likewise, any person who participates in the filing or processing of a complaint is also entitled to freedom from retaliation, see Chapter II, Section 7 for further information.
- E. Right to representation - Every individual invoking the dispute resolution procedures of this Plan and every respondent 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 violate the applicable Code of Conduct, unduly interfere with his or her court duties or result in 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.

## **§ 2 General Disqualification/Recusal Provision**

Whenever any individual invoking the dispute resolution procedures of this Plan makes and files a timely and sufficient written statement that the judge, employee or other person involved in the dispute under this Chapter, before whom the matter is pending, has a personal bias or prejudice either against him or her in favor of any adverse party, the judge, employee or other person involved in a dispute shall proceed no further therein, but another person shall be assigned to hear such proceeding.

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

## **§ 3 Remedies**

Where a presiding judge finds that a substantive right protected by this Plan has been violated, he/she 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 the Plan, or both. A remedy shall be tailored as closely as possible to the specific violation involved.

- A. Potential disciplinary and remedial consequences for violations of this Plan include but are not limited to:

1. an apology to the victim;
  2. required counseling or training;
  3. oral or written reprimand;
  4. loss of salary or benefit; and
  5. suspension, probation, demotion, or termination.
- B. Remedies that may be provided to successful complainants under this Plan include, but are not limited to:
1. placement of an employee in a position previously denied;
  2. placement in a comparable alternative position;
  3. reinstatement to a position from which previously removed;
  4. prospective promotion to a position;
  5. priority consideration for a future promotion or position;
  6. back pay and associated benefits, including attorney's fees, where the statutory criteria of the Back Pay Act, 5 U.S.C. § 5596, are satisfied;
  7. records modification and/or expungement;
  8. "equitable" relief, such as temporary stays of adverse actions;
  9. granting of family and medical leave; and
  10. accommodation of disabilities through the purchase of specialized equipment or the restructuring of duties and work hours.
- C. Remedies that are *not* available under this Plan include:
1. payment of attorney's fees (except as authorized under the Back Pay Act);
  2. compensatory damages;
  3. punitive damages; and
  4. overtime pay.

#### **§ 4 Record of Final Decisions**

Final decisions will be made known to those parties involved in the formal process. Final decisions under this Plan shall not be made available to the public unless specifically ordered by the Chief Judge.

### **CHAPTER XI - ANNUAL REPORT**

#### **§ 1 Preparation of the Report on Complaints**

The EEO/EDR Coordinator will prepare an annual report for the year ending September 30, consolidating the data and statements received for each employing office. The report will include tables to be provided by the Administrative Office consolidating the information provided by each employing office. The report will also describe instances where significant achievements were made in providing equal employment opportunities, will identify areas where improvements are needed, and will identify factors inhibiting achievement of equal employment opportunity objectives. In addition, the annual report will indicate:

- A. The number of complaints initiated;
- B. The types of complaints initiated according to race, color, national origin, age, religion, sex (including pregnancy, childbirth, and medical conditions related to pregnancy, childbirth, or breastfeeding), sexual orientation, gender, gender identity or expression, military or veteran status, mental or physical disability, genetic information, ancestry, marital status, citizenship status, or any other characteristic or status protected by applicable law;
- C. The number of complaints resolved informally;
- D. The number of complaints resolved formally without a hearing; and
- E. The number of complaints 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 to the Administrative Office by November 30 of each year.

#### **§ 2 Objectives**

Each employing office will develop annually its own objectives, which reflect any improvements needed for hiring, promotions, and advancement, and will prepare a specific plan for the EEO/EDR Coordinator explaining how those objectives will be achieved.



**§ 3 Availability of the Report on Complaints**

A copy of the report will remain in the Court and will be made available to the public upon written request.

**CHAPTER XII - NOTICE AND RECORDS**

Copies of these procedures shall be given to all employees and, upon request, to members of the public.

At the conclusion of formal and informal proceedings under this Plan, all papers, files, transcripts, audio or visual recordings, and reports will be filed with the court's EEO/EDR Coordinator. 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.

## APPENDIX A

### **Chief Judge:**

Judge Rebecca Pallmeyer	312-435-5600	rebecca_pallmeyer@ilnd.uscourts.gov
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### **EEO Liaison Judge:**

Judge Mary Rowland	312-435-5358	mary_rowland@ilnd.uscourts.gov
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### **Clerk of Court:**

Thomas Bruton	312-435-6860	thomas_bruton@ilnd.uscourts.gov
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### **Manager of Judicial Support:**

Michael Serratore	312-435-5359	michael_serratore@ilnd.uscourts.gov
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### **EEO/EDR Coordinator:**

Michelle Hennings	312-435-5598	michelle_hennings@ilnd.uscourts.gov
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### **ILND EEO/EDR Counselor:**

Cynthia Cohan	312-435-3084	cynthia_cohan@ilnd.uscourts.gov
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### **External EEO Counselor:**

Dr. Daniel O'Grady	630-779-2135	drdogrady@comcast.net
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### **Confidential Reporting Phone Line:**

312-435-5606