

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

I. INTRODUCTION

The Federal Judiciary is committed to a workplace of respect, civility, fairness, tolerance, and dignity, free of discrimination and harassment. These values are essential to the Judiciary, which holds its Judges and Employees to the highest standards. All Judges and Employees are expected to treat each other accordingly.

This Plan (“EDR Plan” or “Plan”) provides options for the reporting and resolution of allegations of wrongful conduct (discrimination, sexual, racial, or other discriminatory harassment, abusive conduct, and retaliation) in the workplace. Early action is the best way to maintain a safe work environment. All Judges, Employing Offices, and Employees have a responsibility to promote workplace civility, to prevent harassment or abusive conduct, and to take appropriate action upon receipt of reliable information indicating a likelihood of wrongful conduct under this Plan. *See* Code of Conduct for Judicial Employees, Canon 3(C).

This Plan applies to all Judges, current and former Employees (including all law clerks, chambers employees, court reporters, 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 Plan: Judges, applicants for judicial appointment, and any other non-Employees not specified above. *See* Appendix 1 for full definitions of Judges and Employees.

The Court expects that all persons in the courthouse or having business with the Court, including persons who are neither Judges nor Employees, will conduct themselves in a manner consistent with Chapter II below. As for Judges, this Plan is intended to supplement, not supersede, the provisions for resolving complaints of judges’ misconduct or disability under 28 U.S.C. §§ 351-364.

II. WRONGFUL CONDUCT

This Plan prohibits wrongful conduct that occurs during the period of employment or the interview process (for an applicant).

A. Wrongful conduct includes:

- discrimination;
- sexual, racial, and other discriminatory harassment;
- abusive conduct; and
- retaliation (including retaliation as described in the Whistleblower Protection Provision in [Guide to Judiciary Policy, Vol. 12, § 220.10.20\(c\)](#)).

Wrongful conduct can be verbal or non-verbal, physical or non-physical.

Wrongful conduct also includes conduct that would violate the following employment laws and policy, as applied to the Judiciary by Judicial Conference policy:

- Title VII, Civil Rights Act of 1964;
- Age Discrimination in Employment Act of 1967;
- Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973 (*see* Appendix 6 for further information regarding Reasonable Accommodations);
- Family and Medical Leave Act of 1993;
- Uniformed Services Employment and Reemployment Rights Act of 1994;
- Whistleblower Protection Provision ([Guide, Vol. 12, § 220.10.20\(c\)](#));
- Worker Adjustment and Retraining Notification Act;
- Occupational Safety and Health Act; and
- The Employee Polygraph Protection Act of 1988.

See [Guide, Vol. 12, Ch. 2](#).

B. Discrimination is an adverse employment action that materially affects the terms, conditions, or privileges of employment (such as hiring, firing, failing to promote, or a significant change in benefits) based on the following Protected Categories: race, color, sex, gender, gender identity or expression, pregnancy, sexual orientation, religion, national origin, age (40 years and over)¹, mental or physical disability, veteran status, or genetic information.

C. Discriminatory harassment is unwelcome conduct that is based on a Protected Category that is subjectively and objectively offensive, and has the purpose or effect of unreasonably interfering with or disrupting an individual's work performance or creating an abusive, hostile, or intimidating work environment. Discriminatory harassment can be physical, verbal, and/or nonverbal, and need not rise to the level of severe or pervasive conduct. Discriminatory harassment includes sexual harassment.

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

Examples of conduct that may give rise to discriminatory harassment: epithets, threats, or slurs; derogatory comments about a person's race, gender identity, ethnicity, culture, or foreign accent; jokes about a person's age, disability, citizenship, or sexual orientation; or drawings, cartoons, or other behavior that is insulting or derogatory of persons based on their protected status.

Examples of conduct that may give rise to sexual harassment: suggestive or obscene notes, emails, text messages, comments, gestures, or other types of communications; sexually degrading comments; display of sexually suggestive objects or images; unwelcome or inappropriate touching or physical contact; unwelcome sexual advances or propositions; inappropriate remarks of a sexual nature or about physical appearance; repeated sexual jokes, flirtations, advances or propositions, or discussions of sexual activity (whether in conversation or through electronic or other means); promotion, retention or other employment actions (positive or negative) affected by an individual's submission to, or rejection of, sexual advances; or favoritism based on submission (consensual or nonconsensual) to sexual advances.

Gender based harassment is prohibited whether or not the offensive conduct is sexual in nature, and whether or not the harasser and the person being harassed are of the same gender or different genders.

D. Abusive Conduct is a pattern of demonstrably egregious and hostile conduct not based on a Protected Category that unreasonably interferes with an Employee's work and creates an abusive working environment. Abusive conduct includes conduct that is threatening, oppressive, bullying, or intimidating.

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

E. Retaliation is a materially adverse action taken against an Employee for reporting allegedly wrongful conduct; for assisting in the defense of rights protected by this Plan; or for opposing allegedly wrongful conduct. Retaliation against a person who reveals or reports allegedly wrongful conduct is itself wrongful conduct. This Plan prohibits any person from treating any other person adversely for reporting alleged harassment, discrimination, or retaliation, for assisting another individual in making such a report, for cooperating in an investigation into such conduct, or for proceeding to/participating in a hearing.

III. REPORTING WRONGFUL CONDUCT

The Judiciary encourages early reporting of and action on wrongful conduct. If you believe that you or another person have been subjected to discrimination, harassment, retaliation, or inappropriate sexual or other behavior, you may ask the offender to stop engaging in the objectionable behavior. In addition, Employees who experience, observe, or learn of reliable evidence of sexual, racial, or other discriminatory harassment or abusive conduct are strongly encouraged to take appropriate action, including reporting it to a supervisor, human resources professional, ILND External EDR Counselor, Unit Executive, Employment Dispute Resolution (“EDR”) Coordinator, Chief Judge, Chief Circuit Judge, Circuit Director of Workplace Relations, or to the national Office of Judicial Integrity. *See* Code of Conduct for Judicial Employees, Canon 3(C). Employees are also encouraged to report wrongful conduct in the workplace by non-Employees. Court and chambers’ confidentiality requirements do not prevent any Employee—including law clerks or externs—from revealing or reporting wrongful conduct by any person.

If a non-Employee (including, but not limited to, a person who 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) is alleged to have committed wrongful conduct, the 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 within a reasonable time by a final report of the outcome of the investigation to the Chief Judge or court unit executive.

In addition (or instead, if such informal requests are ineffective or impractical under the circumstances), you may 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.

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, Unit Executive, Employment Dispute Resolution (“EDR”) Coordinator, Chief Circuit Judge, Circuit Director of Workplace Relations, or to the national Office of Judicial Integrity.

IV. OPTIONS FOR RESOLUTION

The Judiciary’s goal is to address wrongful conduct as soon as possible and to provide multiple, flexible options for doing so. An Employee is always free to address a conduct issue directly with the person who allegedly committed wrongful conduct or to contact a

colleague, supervisor, Unit Executive, Judge, Chief Judge, or other individual to discuss or address the situation. This Plan provides the following additional options, and Employees may choose the option(s) that best fit their needs and comfort level.

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

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

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

1. Confidentiality. All individuals involved in the processes under this Plan must protect the confidentiality of the allegations of wrongful conduct. Information will be shared only to the extent necessary and only with those whose involvement is necessary to address the situation. An assurance of confidentiality must yield when there is reliable information of wrongful conduct that threatens the safety or security of any person or that is serious or egregious such that it threatens the integrity of the Judiciary.

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.

Supervisors, Unit Executives, and Judges must take appropriate action when they learn of reliable information of wrongful conduct, such as sexual, racial, or other discriminatory harassment, which includes informing the Chief Judge.

2. Impartiality. All investigations, hearings, and other processes under this Plan must be conducted in a thorough, fair, and impartial manner. The EDR Coordinator, the Circuit Director of Workplace Relations, and the Presiding Judicial Officer must be impartial and may not act as an advocate for either Party. The EDR Coordinator, Circuit Director of Workplace Relations, or Presiding Judicial Officer must recuse if he or she participated in, witnessed, or was otherwise involved with the conduct or employment action giving rise to the claim. Recusal of these individuals is also required if the matter creates an actual conflict or the appearance of a conflict.

3. Right to representation. Both the Employee and the Employing Office responsible for providing any remedy have the right to be represented by an attorney or other person of their choice at their own expense. Another Employee may assist the Employee or Employing Office if doing so will not constitute a conflict of interest or unduly interfere with the Employee's duties, as determined by the assisting Employee's appointing officer.

4. Interim Relief. An Employee, including a law clerk or other chambers employee, who pursues any of the options under this Plan may request transfer, an alternative work arrangement, or administrative leave if the Employee alleges egregious conduct by a supervisor, Unit Executive, or Judge that makes it untenable to continue working for that person. Any such request must be made to the Unit Executive or Chief Judge, as appropriate, to determine appropriate interim relief, if any, taking into consideration the impact on any Employing Office.

5. Allegations Regarding a Judge. An Employee alleging that a Judge has engaged in wrongful conduct may use any of the options for resolution as set forth in Section C. An Employee may also file a complaint under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351–364. Except for the Informal Advice Option described in Section IV.C.1, the person contacted by the Employee regarding an EDR-related matter involving a judge shall also promptly notify the Chief Judge and the Chief Judge of the Seventh Circuit (unless the Chief District Judge is the subject of the Complaint, in which case the Complaint will be given only to the Chief Circuit Judge) either directly or through the Circuit Director of Workplace Relations).

C. Specific Options

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

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

2. Assisted Resolution. Assisted Resolution is an interactive, flexible process that may include:

- discussing the matter with the person whose behavior is of concern;

- conducting a preliminary investigation, including interviewing persons alleged to have violated rights under this Plan and witnesses to the conduct;
- engaging in voluntary mediation between the persons involved; and/or
- resolving the matter by agreement.

a. To pursue this option, an Employee must contact an EDR Coordinator or Circuit Director of Workplace Relations and complete a “Request for Assisted Resolution” (Appendix 2). An Employee asserting any claim of Abusive Conduct as defined in § II.D must first use Assisted Resolution before filing a Formal Complaint. Filing a Request for Assisted Resolution tolls (extends) the time for filing a Formal Complaint under § IV.C.3, but in no event shall the deadline exceed 300 days from the date that triggers the 180-day clock as set forth in § IV.C.3.a.

b. If the allegations concern the conduct of a Judge, the Chief Judge must be notified and will be responsible for coordinating any Assisted Resolution and/or taking any other action required or appropriate under the circumstances. If the allegations concern the conduct of the Chief Judge, the next district court judge eligible to be chief judge shall take the role of Chief Judge for all proceedings relating to this Plan. *See, e.g.,* Rules for Judicial-Conduct and Judicial-Disability Proceedings.

c. If the allegations concern the conduct of an Employee, the EDR Coordinator or Circuit Director of Workplace Relations will coordinate Assisted Resolution and must notify the appropriate Unit Executive(s). The Unit Executive is responsible for assessing the allegation(s) and taking appropriate steps to resolve the matter. If the allegations concern the conduct of a Unit Executive, the EDR Coordinator must notify the Chief Judge, who is responsible for assessing the allegation(s) and addressing the matter as appropriate.

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

e. If Assisted Resolution is successful in resolving the matter, the Parties will so acknowledge in writing.

f. The Parties by mutual assent, or at the discretion of the EDR Coordinator or Circuit Director of Workplace Relations, will determine when to conclude the Assisted Resolution process. If Assisted Resolution is not successful in resolving the matter, the EDR Coordinator or Circuit Director of Workplace Relations will advise the Employee of

the Employee's rights to file a Formal Complaint and/or pursue action under the Judicial Conduct and Disability Act, if applicable, or any other processes.

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

a. To file a Complaint, an Employee must submit a "Formal Complaint" (Appendix 3) to any of the Court's EDR Coordinators within 180 days of the alleged wrongful conduct or within 180 days of the time the Employee becomes aware or reasonably should have become aware of such wrongful conduct. Use of the Assisted Resolution options tolls (extends) this 180-day deadline until the Assisted Resolution process(es) conclude(s). Also, the chief judge of the relevant court may, in writing to the potential complaining party, extend the 180-day deadline for good cause. But in no event shall the deadline exceed 300 days from the date of the alleged wrongful conduct or the time the Employee becomes aware or reasonably should have become aware of such wrongful conduct.

b. An Employee asserting any claim of Abusive Conduct as defined in § II.D must first use Assisted Resolution before filing a Formal Complaint.

c. The Employee filing the Complaint is called the Complainant. The Party responding to the Complaint is the Employing Office that is responsible for providing any appropriate remedy and is called the Respondent. The Complaint is not filed against any specific individual(s) but against the Employing Office.

d. Complaint Regarding a Judge. An Employee alleging that a Judge has engaged in wrongful conduct may file a Complaint under this Plan. The EDR Coordinator must immediately provide a copy of the Complaint to the Chief District Judge and the Chief Circuit Judge (or the next most-senior active Circuit Judge, if the allegation is against the Chief Circuit Judge), who will oversee the EDR Complaint process. If a Judge is the subject of the Complaint, the EDR Coordinator must also provide a copy of the Complaint to the Chief District Judge (unless the Chief District Judge is the subject of the Complaint, in which case the Complaint will be given only to the Chief Circuit Judge).

If a Judge becomes the subject of both a Complaint under this Plan and a complaint under the Judicial Conduct and Disability Act, the Chief Circuit Judge will determine the appropriate procedure for addressing both, which may include holding the EDR claim in abeyance and determining how best to find any common issues of fact, subject to all requirements of the Judicial Conduct and Disability Act, the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and, as practicable, this EDR Plan. Regardless of whether there is a formal complaint under the Judicial Conduct and

Disability Act, the Chief Circuit Judge should consider the need for any necessary or appropriate interim relief.

e. Formal Complaint Procedures and Procedural Rights

i. *Appointment of Presiding Judicial Officer.* Upon receipt of a Complaint, the EDR Coordinator will immediately send a copy of the Complaint to the Chief Judge, who will appoint a Presiding Judicial Officer. The Presiding Judicial Officer will be a Judge in the Court or, when appropriate, a Judge from another Court (with the consent of the respective Chief Judge of that Court).

ii. *Presiding Judicial Officer.* The Presiding Judicial Officer oversees the Complaint proceeding. The Presiding Judicial Officer will provide a copy of the Complaint to the head of the Employing Office against which the Complaint has been filed (Respondent), except when the Presiding Judicial Officer determines for good cause that the circumstances dictate otherwise. The Presiding Judicial Officer must provide the individual alleged to have violated rights under this Plan notice that a Complaint has been filed and the nature and substance of the Complaint allegations.

The Presiding Judicial Officer will provide for appropriate investigation and discovery, allow for settlement discussions, determine any written submissions to be provided by the Parties, determine if a hearing is needed, determine the time, date, and place of the hearing, issue a written decision, and, if warranted, order remedies.

iii. *Disqualification and Replacement.* Either Party may seek disqualification of the EDR Coordinator or the Presiding Judicial Officer by written request to the Chief Judge, explaining why the individual should be disqualified.

If the Presiding Judicial Officer is disqualified, the Chief Judge will designate another Judge to serve as Presiding Judicial Officer. If the EDR Coordinator is disqualified, the Chief Judge will appoint one of the alternate EDR Coordinators or, if available, an EDR Coordinator from another Court (with the consent of the respective Chief Judge of that Court).

iv. *Response.* The Respondent may file a Response to the Complaint with the EDR Coordinator within **30 days** of receiving the Complaint. The EDR Coordinator must immediately send the Response to the Presiding Judicial Officer and to the Complainant.

v. *Investigation and Discovery.* The Presiding Judicial Officer will ensure that the allegations are thoroughly, impartially, and fairly investigated, and may use outside trained investigators if warranted. The investigation may include interviews with persons alleged to have violated rights under this Plan and witnesses, review of relevant records,

and collecting documents or other records. The Presiding Judicial Officer will provide for such discovery to the Complainant and Respondent as is necessary and appropriate. The Presiding Judicial Officer will also determine what evidence and written arguments, if any, are necessary for a fair and complete assessment of the allegations and response.

vi. *Case preparation.* The Complainant may use official time to prepare the Complainant's case, so long as it does not unduly interfere with the performance of duties.

vii. *Extensions of time.* Any request for an extension of time must be in writing. The Presiding Judicial Officer may extend any of the deadlines set forth in this EDR Plan for good cause, except for the deadline to issue a written decision, which may be extended only by the Chief Judge.

viii. *Established Precedent.* In reaching a decision, the Presiding Judicial Officer should be guided by judicial and administrative decisions under relevant rules and statutes, as appropriate. The Federal Rules of Evidence and any federal procedural rules do not apply.

ix. *Notice of Written Decision.* The EDR Coordinator or Presiding Judicial Officer will immediately send a copy of the written decision to the Parties, the Chief Judge of the Court, and to any individual alleged to have violated rights protected by this Plan. The EDR Coordinator will inform the Parties of appeal rights, procedures, and deadlines.

f. Resolution of Complaint Without a Hearing. After notifying the Parties and giving them an opportunity to respond, the Presiding Judicial Officer may resolve the matter without a hearing.

i. The Presiding Judicial Officer may dismiss a Complaint and issue a written decision at any time in the proceedings on the grounds that: it is untimely filed, is frivolous, fails to state a claim, or does not allege violations of the rights or protections in this Plan; the alleged conduct arises out of the same facts and circumstances, and was resolved by, a previous EDR Complaint or other claim process or procedure; or on other appropriate grounds.

ii. After completion of investigation and discovery, the Presiding Judicial Officer may, on the Judicial Officer's own initiative or at the request of either Party, issue a written decision if the Presiding Judicial Officer determines that no relevant facts are in dispute and that one of the Parties is entitled to a favorable decision on the undisputed facts.

iii. The Parties may enter into an agreed written settlement if approved in writing by the Presiding Judicial Officer and the Chief Judge.

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

i. *Hearing.* The hearing will be held no later than **60 days** after the filing of the Complaint unless the Presiding Judicial Officer extends the deadline for good cause. The Presiding Judicial Officer will determine the place and manner of the hearing.

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

iii. *Right to Present Evidence.* The Complainant and Respondent have the right to present witnesses and documentary evidence and to examine adverse witnesses.

iv. *Record of Proceedings.* A verbatim record of the hearing must be made and will be the official record of the proceeding. This may be a digital recording or a transcript.

v. *Written Decision.* The Presiding Judicial Officer will make findings of fact and conclusions of law and issue a written decision no later than **60 days** after the conclusion of the hearing, unless an extension for good cause is granted by the Chief Judge.

h. Remedies. When the Presiding Judicial Officer finds that the Complainant has established by a preponderance of the evidence (more likely than not) that a substantive right protected by this Plan has been violated, the Presiding Judicial Officer may direct the Employing Office to provide remedies for the Complainant. The remedies are limited to providing relief to the Complainant, should be tailored as closely as possible to the specific violation(s) found, and 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 or procedures.

i. *Allowable Remedies may include:*

- placement of the Complainant in a position previously denied;
- placement of the Complainant in a comparable alternative position;
- reinstatement to a position from which the Complainant was previously removed;
- prospective promotion of the Complainant;
- priority consideration of the Complainant for a future promotion or position;

- back pay and associated benefits, when the statutory criteria of the Back Pay Act are satisfied²;
- records modification and/or expungement;
- granting of family and medical leave;
- “equitable” relief, such as temporary stays of adverse actions;
- any reasonable accommodation(s); and
- any other appropriate remedy to address the wrongful conduct.³

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

i. Review of Decision (Appeal). A party aggrieved by the final decision of the Presiding Judicial Officer may appeal the decision to the Judicial Council of the Seventh Circuit by submitting in writing a Request for Review of Decision (“appeal”) setting forth the grounds for appeal within **30 days** of the date of the final decision. The EDR Coordinator will inform the parties of the procedures for seeking review, which are set forth in Appendix 4. The decision will be reviewed based on the record created by the Presiding Judicial Officer and affirmed if supported by substantial evidence and the proper application of legal principles.

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

³ The issue in an EDR Complaint is whether the Employing Office is responsible for the alleged conduct; it is not an action against any individual. The Presiding Judicial Officer lacks authority to impose disciplinary or similar action against an individual. When there has been a finding of wrongful conduct in an EDR proceeding, an appointing official, or official with delegated authority, should separately assess 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 victim;
- requiring counseling or training;
- ordering no contact with the Complainant;
- reassigning or transferring an Employee;
- oral or written reprimand of the Employee who engaged in wrongful conduct;
- issuing a suspension, probation, or demotion of the Employee who engaged in wrongful conduct; and/or
- terminating employment for the Employee who engaged in wrongful conduct.

V. COURT AND EMPLOYING OFFICE OBLIGATIONS

To ensure that Employees are aware of the options provided by this Plan, and that the Plan is effectively implemented, the Court and the Employing Offices covered under this Plan must adhere to the following:

A. Records. At the conclusion of informal or formal proceedings under this Plan, all papers, files, and reports will be filed with the EDR Coordinator. No papers, files, or reports relating to an EDR matter will be filed in any Employee's personnel folder, except as necessary to implement an official personnel action.

Final decisions under this Plan will be made available to the public, appropriately redacted, in accordance with procedures established by the judicial council of the Seventh Circuit.

B. EDR Coordinators. The Chief Judge will designate both a primary EDR Coordinator and at least one alternate EDR Coordinator for the Court. The Court may use an EDR Coordinator from another Court, or may use the Circuit Director of Workplace Relations as an alternate EDR Coordinator, if necessary, with the approval of the Chief Judge and the Circuit's Chief Judge. An Employee may choose the EDR Coordinator with whom he or she wishes to seek Informal Advice, request Assisted Resolution, or file a Complaint under this Plan.

An EDR Coordinator must be an Employee who is not a Unit Executive. A Judge may not be an EDR Coordinator. All EDR Coordinators must be trained and certified as set forth in the *EDR Interpretive Guide and Handbook*.

C. Advising Employees of their Rights. The Court and Employing Offices will:

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

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

2. prominently display in the workplace:

- the posters set forth in Appendix 5; and
- an Anti-Discrimination and Harassment Notice that: (a) states that discrimination or harassment based on race, color, national origin, age (40

years and over at the time of the alleged discrimination), religion, sex, sexual orientation, gender identity or expression, pregnancy, veteran status, disability, or genetic information is prohibited; (b) explains that Employees can report, resolve, and seek remedies for discrimination, harassment, or other wrongful conduct under the Plan by contacting any of the Court's EDR Coordinators and/or the Circuit Director of Workplace Relations, and/or the national Office of Judicial Integrity; (c) identifies the names and contact information of all Court EDR Coordinators, the Circuit Director of Workplace Relations, and the national Office of Judicial Integrity; and (d) states where the Plan can be located on the Court's website.

3. ensure that each new Employee receives an electronic or paper copy of the Plan and acknowledges in writing that he or she has read the Plan within the first week of employment;

4. ensure that each Employee receives an electronic copy of the Plan annually; and

5. conduct training annually for all Judges and Employees, including chambers staff, to ensure that they are aware of the rights and obligations under the Plan and the options available for reporting wrongful conduct and seeking relief.

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

E. Appendices Attached:

1. Definitions
2. Request for Assisted Resolution
3. Formal Complaint Form
4. Request for Review of Decision Procedures and Sample Form
5. Posters
6. Reasonable Accommodations

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

Effective date: August 11, 2022

DEFINITIONS APPENDIX 1

Circuit Director of Workplace Relations: A circuit Employee who coordinates workplace conduct issues and the implementation of all Court EDR Plans within the circuit. The Circuit Director of Workplace Relations may: provide Informal Advice and Assisted Resolution under any EDR Plan within the circuit; assist in training the EDR Coordinators within the circuit; provide or arrange for training throughout the circuit on workplace conduct, discrimination, and sexual harassment; and collect and analyze statistical data and other information relevant to workplace conduct matters.

Court: The U.S. District Court for the Northern District of Illinois.

Disability: Disability is defined as: 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.

EDR Coordinator: A Court Employee, other than a Judge or Unit Executive, designated by the Chief Judge to coordinate all of the Options for Resolution provided for in this Plan. The EDR Coordinator provides confidential advice and guidance (*see § IV.B.1.*) if an Employee seeks Informal Advice; coordinates the Assisted Resolution process, including any necessary investigation; accepts Complaints under this Plan for filing; and assists the Presiding Judicial Officer in the Complaint proceeding, as directed. The EDR Coordinator maintains and preserves all Court files pertaining to matters initiated and processed under this EDR Plan. The EDR Coordinator assists the Court in meeting its obligations under this Plan to train and advise employees of their rights under this Plan, and to post the Plan as directed. Additional information on the EDR Coordinator's responsibilities may be found in the EDR Interpretive Guide and Handbook.

Employee: All employees of the Court. This includes Unit Executives and their staffs; judicial assistants and other chambers employees; law clerks; chief probation officers and chief pretrial services officers and their respective staffs; court reporters appointed by a Court; and paid and unpaid interns, externs, and other volunteer employees.

Employing Office/Respondent: The office of the Court that is responsible for providing any appropriate remedy. The Court is the Employing Office of Judges and chambers employees.

Illinois Northern External EDR Counselor: An EDR trained and certified non-judiciary counselor that provides confidential advice and guidance (*see § IV.B.1.*) if an Employee seeks Informal Advice.

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

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

Parties: The Employing Office and the Employee who has filed a request for Assisted Resolution or a Formal Complaint.

Protected Category: Race, color, sex, gender, gender identity and expression, pregnancy, sexual orientation, religion, national origin, age (40 years and over),* veteran status, mental or physical disability, or genetic information.

Unit Executive: Clerk of court, chief probation officer, and chief pretrial services officer.

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

**REQUEST FOR ASSISTED RESOLUTION
APPENDIX 2**

Submitted under the Procedures of
the Seventh Circuit Employment Dispute Resolution Plan**

Court: _____

Full name of person submitting the form: _____

Your mailing address: _____

Your email address: _____

Your phone number(s): _____

Office in which you are employed or applied to: _____

Name and address of Employing Office from which you seek assistance (*if the matter involves a judge or chambers employee, the Employing Office is the Court*):

Your job title/job title applied for: _____

Date of interview (*for interviewed applicants only*): _____

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

Summary of the actions or occurrences for which you seek Assisted Resolution (attach additional pages as needed):

Names and contact information of any witnesses to the actions or occurrences for which you seek Assisted Resolution:

Describe the assistance or corrective action you seek:

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

- | | |
|---|---|
| <input type="checkbox"/> Discrimination based on (<i>check all that apply</i>): | <input type="checkbox"/> Harassment based on (<i>check all that apply</i>): |
| <input type="checkbox"/> Race | <input type="checkbox"/> Race |
| <input type="checkbox"/> Color | <input type="checkbox"/> Color |
| <input type="checkbox"/> Sex | <input type="checkbox"/> Sex |
| <input type="checkbox"/> Gender | <input type="checkbox"/> Gender |
| <input type="checkbox"/> Gender identity or expression | <input type="checkbox"/> Gender identity or expression |
| <input type="checkbox"/> Pregnancy | <input type="checkbox"/> Pregnancy |
| <input type="checkbox"/> Sexual orientation | <input type="checkbox"/> Sexual orientation |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Religion |
| <input type="checkbox"/> National origin | <input type="checkbox"/> National origin |
| <input type="checkbox"/> Age | <input type="checkbox"/> Age |
| <input type="checkbox"/> Veteran status | <input type="checkbox"/> Veteran status |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Disability |
| <input type="checkbox"/> Genetic information | <input type="checkbox"/> Genetic information |
| <input type="checkbox"/> Citizenship | <input type="checkbox"/> Citizenship |

- | | | |
|---|--|---|
| <input type="checkbox"/> Abusive Conduct | <input type="checkbox"/> Uniform Services | <input type="checkbox"/> Occupational Safety |
| <input type="checkbox"/> Retaliation | <input type="checkbox"/> Employment and | <input type="checkbox"/> and Health |
| <input type="checkbox"/> Whistleblower | <input type="checkbox"/> Reemployment | <input type="checkbox"/> Polygraph Protection |
| <input type="checkbox"/> Protection | <input type="checkbox"/> Rights | <input type="checkbox"/> Other (describe) |
| <input type="checkbox"/> Family and Medical | <input type="checkbox"/> Worker Adjustment | |
| <input type="checkbox"/> Leave | <input type="checkbox"/> and Retraining | |

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

Yes

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

No

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

Your signature _____

Date submitted _____

Request for Assisted Resolution reviewed by EDR Coordinator/Circuit Director of Workplace Relations on _____

EDR Coordinator/Circuit Director of Workplace Relations name _____

EDR Coordinator/Circuit Director of Workplace Relations signature _____

Local Court Claim ID (Court Initials-AR-YY-Sequential Number): _____

FORMAL COMPLAINT FORM

APPENDIX 3

Submitted under the Procedures of
the Seventh Circuit Employment Dispute Resolution Plan***

Court: _____

Full name of person submitting the form (Complainant): _____

Your mailing address: _____

Your email address: _____

Your phone number(s): _____

Office in which you are employed or applied to: _____

Name and address of Employing Office from which you seek a remedy (*if the matter involves a judge or chambers employee, the Employing Office is the Court*):

Your job title/job title applied for: _____

Date of interview (*for interviewed applicants only*): _____

Date(s) of alleged incident(s) for which you seek a remedy:

Summary of the actions or occurrences giving rise to the Complaint (*attach additional pages as needed*):

Describe the remedy or corrective action you seek (*attach additional pages as needed*):

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

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

- | | |
|--|---|
| <input type="checkbox"/> Discrimination based on (<i>check all that apply</i>): | <input type="checkbox"/> Harassment based on (<i>check all that apply</i>): |
| <input type="checkbox"/> Race | <input type="checkbox"/> Race |
| <input type="checkbox"/> Color | <input type="checkbox"/> Color |
| <input type="checkbox"/> Sex | <input type="checkbox"/> Sex |
| <input type="checkbox"/> Gender | <input type="checkbox"/> Gender |
| <input type="checkbox"/> Gender identity or expression | <input type="checkbox"/> Gender identity or expression |
| <input type="checkbox"/> Pregnancy | <input type="checkbox"/> Pregnancy |
| <input type="checkbox"/> Sexual orientation | <input type="checkbox"/> Sexual orientation |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Religion |
| <input type="checkbox"/> National origin | <input type="checkbox"/> National origin |
| <input type="checkbox"/> Age | <input type="checkbox"/> Age |
| <input type="checkbox"/> Veteran status | <input type="checkbox"/> Veteran status |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Disability |
| <input type="checkbox"/> Genetic information | <input type="checkbox"/> Genetic information |
| <input type="checkbox"/> Citizenship | <input type="checkbox"/> Citizenship |
|
 | |
| <input type="checkbox"/> Abusive Conduct | |
| <input type="checkbox"/> I have already sought Assisted Resolution for this Abusive Conduct claim. | |

Provide date Request for Assisted Resolution submitted and concluded, and describe the resolution, if any:

- | | |
|---|--|
| <input type="checkbox"/> Retaliation | <input type="checkbox"/> Uniform Services and Retraining |
| <input type="checkbox"/> Whistleblower Protection | <input type="checkbox"/> Employment and Reemployment |
| <input type="checkbox"/> Family and Medical Leave | <input type="checkbox"/> Rights |
| | <input type="checkbox"/> Worker Adjustment |
| | <input type="checkbox"/> Occupational Safety and Health |
| | <input type="checkbox"/> Polygraph Protection |
| | <input type="checkbox"/> Other (describe) |

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

Yes

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

No

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

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

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

Complainant signature _____

Date submitted _____

Complaint reviewed by EDR Coordinator on _____

EDR Coordinator name _____

EDR Coordinator signature _____

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

**APPENDIX 4 -- REQUEST FOR REVIEW OF DECISION:
HOW TO APPEAL A FINAL DECISION ON AN EDR COMPLAINT
The Judicial Council of the Seventh Circuit Adopted: May 10, 2022
Revised: ----**

1. **Introduction.** These rules govern the procedures for requesting review of a decision on a complaint filed pursuant to the Employment Dispute Resolution Plan for the United States District Court for the Northern District of Illinois (“EDR Plan”). These rules are adopted under Section IV.C.3(i) of the EDR Plan. The definitions contained in the EDR Plan are incorporated by reference.

2. **Request for Review.** A party aggrieved by a final decision of the Presiding Judicial Officer may appeal that decision to the Judicial Council of the Seventh Circuit. A panel of no fewer than three members of the Judicial Council will conduct the review. The review is based on the record created before the Presiding Judicial Officer. The panel will affirm the decision of the Presiding Judicial Officer if the decision is supported by substantial evidence and the proper application of legal principles. The panel’s decision is not subject to further review.

3. **Filing an Appeal.** To file an appeal, complete and submit the Request for Review of Decision (Appeal) form provided in Appendix 4. The form must set forth the grounds for the appeal and be directed to the Circuit Executive of the Seventh Circuit at the following e-mail address: ca07_circuit_executive@ca7.uscourts.gov. The appeal must be received no later than **30 days** following the date of the Presiding Judicial Officer’s final decision. If the deadline occurs on a Saturday, Sunday, or holiday, the deadline shall be extended to the next business day. Absent extraordinary circumstances, an appeal received after the 30-day deadline will be rejected.

4. **Processing the Appeal.** Upon receipt of a timely appeal submitted on the form provided in Appendix 4, the Circuit Executive will acknowledge receipt of the appeal and forward a copy of the appeal to the other party, the Presiding Judicial Officer, and the EDR Coordinator of the employing court. Upon receipt of the appeal, the EDR Coordinator will inform both parties of the procedures for seeking review and will submit the complete record of the EDR proceeding to the Circuit Executive. The Circuit Executive will forward the complete record, along with the appeal, to the Chief Judge of the Seventh Circuit.

5. **Review Panel.** Upon receipt of the record and the appeal, the Chief Judge of the Seventh Circuit will appoint a panel comprised of at least three members of the Judicial Council to review the Presiding Judicial Officer’s final decision. If a member of the panel is disqualified, the Chief Judge of the Seventh Circuit will designate a replacement. The

Circuit Executive will forward the complete record to the designated panel, which will then set a briefing schedule if appropriate. The panel shall be empowered to act for and on behalf of the Judicial Council.

6. **Scope of Record on Appeal.** Only claims presented to the Presiding Judicial Officer will be considered on appeal, and evidence that was not before the Presiding Judicial Officer will not be considered unless the panel requests additional evidence or documentation from either party.

7. **Standard of Review.** The decision will be affirmed if supported by substantial evidence and the proper application of legal principles. “Substantial evidence” is relevant evidence that a reasonable mind might accept as adequate to support a conclusion.

8. **Decision on Appeal.** The panel will endeavor to issue a written decision within 60 days of receiving the record or the end of briefing, whichever is later. In the event additional time is needed for review, the panel or its designee will so notify the parties. Once the panel issues its decision, the Circuit Executive will promptly distribute a copy of the panel’s written decision to both parties, the Chief Judge of the Seventh Circuit, the Presiding Judicial Officer, and the EDR Coordinator of the employing court. Upon written request to the Director of Workplace Relations, the decision will be made available free of charge, appropriately redacted, and in accordance with the circuit’s procedures for the release of final decisions.

9. **Finality.** The panel’s decision on an appeal is final and conclusive and not subject to further review by the Judicial Council or otherwise.

Submitted under the Procedures of
the Seventh Circuit Employment Dispute Resolution Plan****

SAMPLE FORM

Name of Requesting Party _____
Address _____
Phone Number(s) _____
Email Address _____

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

_____, Requesting Party v.
_____, Responding Party

Request for Review of Decision on Formal Complaint

Notice is hereby given that _____,
(Requesting Party) in the above-named case, hereby requests review by the Judicial
Council for the Seventh Circuit from the decision by Judge _____
entered in this matter on the day of _____, 20__.

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

State the reason(s) you contend that the Presiding Judicial Officer's decision was
in error (**attach additional pages if necessary**):

Submitted this _____ day of _____, 20__.

Signature of Requesting Party _____

Signature of Counsel, if any _____

Approved by the Seventh Circuit Judicial Council on _____

POSTERS

APPENDIX 5



You Have Options

How to Address Wrongful Conduct in the Workplace

INFORMAL ADVICE

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

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



ASSISTED RESOLUTION

Contact an EDR Coordinator or Circuit Director of Workplace Relations to request Assisted Resolution. This interactive, flexible process may include:

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



FORMAL COMPLAINT

Contact an EDR coordinator to file a formal complaint.

The Complaint must be filed within **180 days** of the alleged violation or the discovery of the violation.

This formal process includes:

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



Confidentiality

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

Contact Information:

Local EDR Coordinator:
Michelle Hennings
312-435-5598
michelle_hennings@ilnd.uscourts.gov

External EEO Counselor:
Dr. Daniel O'Grady
630-779-2135
drdogrady@comcast.net

Circuit Director of Workplace Relations:
Lynda Schoop
312-435-5779
Lynda_Schoop@ca7.uscourts.gov

National Office of Judicial Integrity:
Judicial Integrity Officer
202-502-1603
AO_OJI@ao.uscourts.gov



Your Rights

In a Federal Judiciary Workplace

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

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

Employees may confidentially report workplace discrimination, harassment, abusive behavior, or retaliation to an EDR Coordinator, Circuit Director of Workplace Relations, or the Judicial Integrity Officer (202-502-1603).

Protection from Unlawful Discrimination

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

Protection from Harassment

Prohibits sexual harassment, discriminatory harassment, and abusive conduct.

Protection for Exercising Workplace Rights

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

Family and Medical Leave

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

Protection for Veterans and Members of the Uniformed Services

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

Notification of Office Closings and Mass Layoffs

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

Hazard-Free Workspaces

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

Polygraph Testing Prohibition

Restricts the use and the results of polygraph testing.

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

Effective date: September 17, 2019

APPENDIX 6

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.