

## **APPENDIX 6**

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

#### **I. Considerations Concerning Release of Final Decisions**

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

#### **II. Final Decision**

- a. When the Presiding Judicial Officer has determined that the Complainant has failed to prove wrongful conduct in violation of this EDR Plan, the Officer’s written decision setting out the basis for that decision constitutes the Presiding Judicial Officer’s “final decision.”
- b. When the Presiding Judicial Officer has issued a written ruling concluding that the Complainant has proved wrongful conduct in violation of this EDR Plan, additional proceedings may be required to identify an appropriate remedy. The Presiding Judicial Officer’s consolidated written decision setting out the basis for the Officer’s determination of wrongful conduct, combined with a written decision identifying the remedy directed to be provided, constitutes the Presiding Judicial Officer’s “final decision.”
- c. Upon a Request for Review of the Presiding Judicial Officer’s final decision, the Judicial Council’s order and any memorandum resolving the Complainant’s claims shall constitute the Judicial Council’s final

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

- d. The term “final decision” does not include any decisions made or resolutions reached during the Informal Advice or Assisted Resolution processes. Neither does it include a settlement agreement.
- e. A final decision shall be released only in accordance with the redaction procedures described below.

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

- a. At the same time that the Presiding Judicial Officer issues an unredacted final decision, the latter shall also issue a redacted final decision.
- b. The EDR Coordinator shall send both a redacted and unredacted copy of the final decision to the Chief Circuit Judge, the Circuit Director of Workplace Relations, the Chair of the EEO Committee, and the Chief Judge of the district or bankruptcy court if the Complainant was employed by one of those courts. The Chief Circuit Judge must approve any redactions to the Presiding Judicial Officer’s final decision prior to any dissemination of the redacted decision. The EDR Coordinator shall send a redacted copy of the final decision to the Complainant, the person representing the employing office, and to any person accused of wrongful conduct.
- c. After a Request for Review of the Presiding Judicial Officer’s final decision has been filed, members of the Judicial Council shall receive both a redacted and unredacted copy of that decision. The Presiding Judicial Officer’s final decision shall not be publicly released until after the Judicial Council has issued its final decision. The Presiding Judicial Officer is not authorized to release publicly the Officer’s final decision, which task rests with the Chief Circuit Judge.

#### **IV. Redaction Protocol for the Judicial Council Final Decision**

- a. Following a Request for Review and prior to the public release of any final decision, the Chief Circuit Judge shall ensure that appropriate redactions to the Judicial Council's and Presiding Judicial Officer's final decision have been made.
- b. The Circuit Director of Workplace Relations shall send both redacted and unredacted copies of the Judicial Council's final decision to the Chair of the EEO Committee and the Chief Judge of the district or bankruptcy court if the Complainant was employed by one of those courts. The Circuit Director of Workplace Relations shall send a redacted copy of the Judicial Council's final decision to the Complainant, the person representing the employing office, and to any person accused of wrongful conduct.

#### **V. Material to be Redacted**

- a. The issuance of a redacted final decision informs the reader of the substance of the Complaint, the process through which that Complaint has been investigated, and its ultimate resolution. Redaction of the names of the parties and other involved persons is intended to protect the privacy of those parties and persons.
- b. In addition to blacking out the names of individuals discussed therein, redacted decisions should use descriptor words for those individuals to make the redacted decision understandable. For example, the decision could use such words, as "Complainant," "Supervisor," or "Employee #1" to refer to involved individuals.
- c. The names of the parties shall be redacted from any final decisions released by the Chief Circuit Judge to the public absent a decision to the contrary by the Judicial Council, as set out in subsection e. below.
- d. Final decisions released by the Chief Circuit Judge to the public may also redact:

- i. The names of other individuals involved in the subject-matter of the dispute;
  - ii. Information that could reasonably lead to the identification of the parties unless inclusion of that information is necessary to explain the reasoning of the final decision; and
  - iii. Sensitive information in which a person's privacy interest substantially outweighs both the relevancy of that information to the decision-making process and the public interest in being made aware of the information.
- e. Release of an unredacted final decision
  - i. Although information identifying the parties will typically be redacted from final decisions released to the public, the Judicial Council may decline to redact a particular party's name when it determines that the public interest warrants that action. For example, when a Complainant or a person acting on behalf of a Complainant has publicly identified the Complainant and released information concerning the Complainant's allegations, the Council may deem it necessary that the released final decision likewise identify the Complainant in order to make the public aware of the resolution of those allegations previously made public. *See* Rules for Judicial-Conduct and Judicial-Disability Proceedings, Rule 23 Commentary (although it "will generally be necessary" to shield the identity of the Complainant in any materials disclosed to the public, an exception to this principle may arise when there is "a demonstrated need for disclosure," such as when the Complainant has "demonstrated a lack of concern about maintaining the confidentiality of the proceedings.").
  - ii. A party may file a motion showing cause why a final decision should not redact a particular party's or other person's name. In addition, the Judicial Council may *sua sponte* determine that redaction of a particular party's name is not warranted.

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

## **VI. Release of Final Decisions**

- a. Redacted final decisions involving a judicial officer who has been accused of wrongful conduct will be posted on the Eleventh Circuit's public website. Only final decisions will be released to the public.
- b. Final decisions in which a judicial officer has not been accused of wrongful conduct—that is, the persons accused of wrongful conduct are not judges—will not be released publicly absent a substantial public interest for doing so, as determined by the Judicial Council.

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

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

## **VIII. Internal Distribution of EDR Final Decisions**

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

Effective January 29, 2025.