



Administrative Office
of the United States Courts
Office of Judicial Integrity

Annual Report on the Judiciary Workplace **2023**



Annual Report on the Judiciary Workplace 2023

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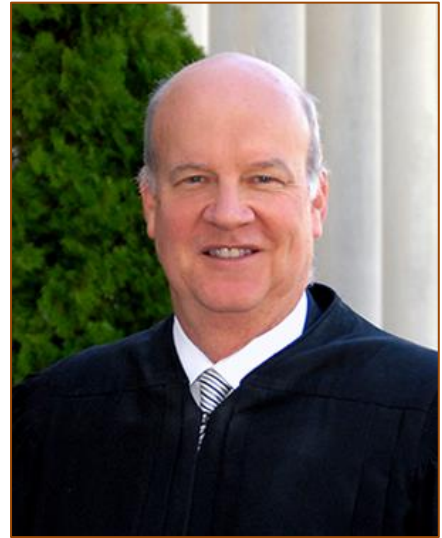
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DIRECTOR'S MESSAGE

As Director of the Administrative Office of the United States Courts and Chair of the [Federal Judiciary Workplace Conduct Working Group](#), I am pleased to present the first Annual Report on the Judiciary Workplace.

Since its creation over five years ago, the Working Group has reviewed and continues to assess the Judiciary's policies, internal procedures, and resources to ensure that Judiciary employees are protected from wrongful conduct in the workplace and have access to effective processes to seek redress for their concerns. This work has resulted in approximately 40 recommendations, including a recommendation in its [March 2022 Report](#) that the national Office of Judicial Integrity publish an annual report detailing the Judiciary's progress in fostering an exemplary workplace.

As this Report details, and consistent with the [Strategic Plan for the Federal Judiciary](#), the Judiciary is committed to ensuring that employees are treated with dignity and respect, and enjoy a workplace free from discrimination, harassment, retaliation, and abusive conduct. Towards these ends, the Judiciary has taken extensive steps to heighten accountability and strengthen processes for redress of wrongful conduct. We are proud of these accomplishments. But there is more work to do. This Annual Report is therefore the first of many reports intended to demonstrate the Judiciary's commitment to the people who work hard every day to ensure the fair and efficient administration of justice.



*Judge Robert J. Conrad, Jr.
Director of the Administrative Office
of the U.S. Courts*

INTRODUCTION: THE JUDICIARY’S STRUCTURE AND WORKFORCE

The federal Judiciary, created under Article III of the Constitution, includes the Supreme Court of the United States, more than 200 lower federal courts, and other judicial branch offices at the national, regional, and local level that support the administration of justice. Under the Criminal Justice Act, 28 U.S.C. § 3006A(g)(2)(A), federal public defender organizations (FPDOs) and their employees are also considered part of the Judiciary for administrative and personnel purposes. This Annual Report relates to the Judiciary’s workplace conduct policies and workplace protections applicable in the lower federal courts, their court units, and FPDOs.¹

Judges who serve in the more than 200 lower federal courts include Article III judges (judges who have life-tenure) and Article I judges (judges who serve for specified terms). Article III judges include circuit judges in the courts of appeals, district judges in the geographic districts of the United States (other than the U.S. territories), and judges of the U.S. Court of International Trade. Article I judges include judges of the U.S. Court of Federal Claims, bankruptcy judges, magistrate judges, and judges of the U.S. territorial district courts.

Each federal judge, each court unit of the lower federal courts (such as clerk’s office or a probation and/or pretrial services office), and each FPDO, is an independent employing office within the Judiciary that manages and supervises its own staff. A judge’s staff, referred to as chambers staff, includes judicial assistants and law clerks (who serve either as career employees or for a specified term). Non-chambers court employees (such as employees in clerk’s offices) include employees who perform court support functions, such as case administration, finance, facilities management, information technology, and human resources services. Probation and pretrial services offices’ employees include both law enforcement officers and administrative and other staff. FPDO employees include assistant public defenders, research and writing specialists, investigators, administrative officers, and other staff.

Together, the judges, their chambers staff, employees of the federal courts and their units, and employees of FPDOs, comprise a Judiciary workforce of approximately 30,000 dedicated public servants spread across the United States, as shown in **Figure 1**.

¹ This Report does not provide information relating to local court policies for employees to file grievances or challenge adverse personnel actions (such as termination, demotion, or suspension) unrelated to allegations of wrongful conduct as defined under Judiciary policy. Additionally, workplace conduct policies, employment dispute resolution processes and related data, and workforce data relating to the Supreme Court of the United States, the Administrative Office of the United States Courts, the Federal Judicial Center, the United States Sentencing Commission, and the Judicial Panel on Multi-District Litigation are outside the scope of this Report. Each of these Judiciary entities operates under separate policies and procedures to address workplace conduct concerns, as set by applicable federal law, Judiciary policy, or internal procedures.

**Figure 1: The Judiciary Workforce by Employment Category
(as of September 30, 2023)**

Employment Categories		
Article III Judges (active and senior) ²	1,409	2,298 judges
Article I Judges	889	
Judges’ chambers staff	5,931	28,009 employees
Non-chambers court employees	11,075	
Probation and Pretrial Services Office employees	7,706	
FPDO employees	3,297	
Total		

Workplace policies in the Judiciary are established at the national, circuit, and local levels. National workplace policies are established through action of the [Judicial Conference of the United States](#) (Judicial Conference). The Judicial Conference convenes twice a year to consider administrative and policy issues affecting the federal court system as a whole, including policy recommendations proposed through its committee structure. The primary Judicial Conference committees with jurisdiction over workplace conduct policies are the Committee on Judicial Resources, the Committee on Codes of Conduct, and the Committee on Judicial Conduct and Disability. The Director of the Administrative Office of the U.S. Courts (AO) serves as Secretary to the Judicial Conference and coordinates administrative support to the Judicial Conference through the AO professional staff.

Because of the decentralized nature of governing authority in the Judiciary, local court units play a critical role in implementing the Judiciary’s national workplace policies. The Judiciary’s employment protections and EDR processes are enforced at the local level through adoption by each court of an updated EDR plan consistent with the circuit’s EDR plan or modified with approval from the circuit judicial council.³ In addition, the chief judge of each court oversees day-to-day court administration, often in consultation with other judges, and supervises the court’s executive officers (such as circuit executives, clerks of court, chief probation officers, and chief pretrial services officers). The clerk of court manages the court’s non-judicial functions according to policies set by the court and reports directly to the court through the chief judge.

Circuit judicial councils ensure that the Judiciary’s national workplace protections are enforceable at the local level through their power to adopt and implement circuit-wide workplace conduct policies and review and approve any modifications to the Judiciary’s [Model EDR Plan](#) or

² **Figure 1** includes active judges as well as retired Article III judges who continue to serve in a judicial capacity (senior judges).

³ Other than the Federal Circuit, each circuit’s judicial council is made up of the chief judge of the circuit and an equal number of circuit judges and district judges from the circuit. The Federal Circuit is unique among the thirteen circuit courts of appeals because it has nationwide jurisdiction to hear appeals from all federal district courts, as well as the U.S. Court of Federal Claims, the U.S. Court of International Trade, and the U.S. Court of Appeals for Veterans Claims. For this reason, the judicial council of the Federal Circuit has no district court members and consists of the circuit judges of the Federal Circuit in regular active service.

[*Model FPDO EDR Plan*](#) requested by local employing offices. Circuit judicial councils also have an adjudicatory role in hearing appeals in EDR matters and in reviewing orders of chief judges in proceedings brought under the [*Rules for Judicial-Conduct and Judicial-Disability Proceedings*](#).

Circuit judicial councils also have general authority to “make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit.” [28 U.S.C. § 332\(d\)\(1\)](#). This authority gives circuits a measure of flexibility in addressing issues facing the administration of the courts within the circuit, including the implementation of the Judiciary’s national workplace policies and employment dispute resolution (EDR) procedures. But to address workplace conduct issues most efficiently, the implementation and enforcement of the Judiciary’s employment protections and EDR processes is undertaken principally through local court units.

HIGHLIGHTS FOR 2023

Universal Implementation of Updated EDR Plans Based on the *Model EDR Plan* and *Model FPDO EDR Plan*

As of the end of 2023, all federal courts have adopted and implemented an updated employment dispute resolution (EDR) plan consistent with the Judiciary's [Model EDR Plan](#), approved by the Judicial Conference in September 2019.

As of the end of 2023, all FPDOs have either adopted an FPDO EDR Plan based on the [Model FPDO EDR Plan](#), approved by the Judicial Conference in September 2021, or are covered by the EDR Plan in their court of appeals that incorporates provisions of the [Model FPDO EDR Plan](#).

As consistent with these locally adopted EDR plans, current and former employees, and interviewed applicants, of the federal courts (including probation and pretrial services offices) and FPDOs may enforce their workplace protections and seek relief and remedies from their employing offices if wrongful conduct – including discrimination, harassment, abusive conduct, and retaliation – occurs in the Judiciary workplace.

Ongoing Implementation of the Workplace Conduct Working Group's March 2022 Recommendations

The Federal Judiciary Workplace Conduct Working Group (Working Group) issued its first report in June 2018. The [June 2018 Report](#) contained more than 30 recommendations, all of which have been implemented. In its [March 2022 Report](#), the Working Group made nine additional recommendations, ranging from additional policy and process improvements, to conducting a national workplace survey, to the publication of this Annual Report. Review and implementation of these recommendations was ongoing throughout 2023. The Working Group continues to meet, solicit and evaluate feedback, and consider future recommendations relating to the Judiciary's workplace policies and processes.

Enforceable Obligations for Judges to Address Reports of Workplace Misconduct

Judiciary policy – as embodied in the *Model EDR Plan* and *Model FPDO EDR Plan*, the [Code of Conduct for United States Judges](#), and the [Rules for Judicial-Conduct and Judicial-Disability Proceedings](#) (*JC&D Rules*) – makes clear that judges must act when reliable reports of potential wrongful conduct or judicial misconduct occur. These policies work in tandem to emphasize the obligation of judges as employers and leaders in the Judiciary to ensure that concerns about workplace misconduct are taken seriously and addressed appropriately. Similar obligations for managers and supervisors in the Judiciary are also set forth in the *Model EDR Plan* and *Model*

FPDO EDR Plan, the [Code of Conduct for Judicial Employees](#), and the [Code of Conduct for Federal Public Defender Employees](#).

Expanded Points of Contact to Help Employees, Managers, and Judges Address Workplace Conduct Concerns

As of the end of FY 2023, nearly 500 professionals at the national, circuit, and local levels are available to provide confidential advice to Judiciary employees, managers, and judges to help address workplace conduct concerns and engage in outreach and training initiatives. At the national level, the AO's Office of Judicial Integrity added two new full-time positions in FY 2022 and continues to evaluate expansion of its staff. At the circuit level, each of the thirteen federal circuits has a designated Director of Workplace Relations (DWR), and two circuits (the Sixth and the Ninth) have Deputy DWR positions. Two circuits (the First and the Ninth) have also created workplace relations specialist positions. Each local employing office also has at least one designated EDR Coordinator and a designated alternate – with approximately 450 individuals serving as EDR Coordinators in FY 2023.

Expanded Education and Training on Workplace Rights

The Judiciary continued to expand its workplace conduct education and training efforts in 2023 through in-person and virtual programs offered at the national, circuit, and local levels, as well as through online programs available on-demand. National EDR training conducted virtually by the Office of Judicial Integrity in 2023 was attended by nearly 9,000 Judiciary employees, managers, and judges. This training supplemented training offered at the local level. In 2023, circuit DWRs also continued to lead and participate in various workplace-related programs and EDR trainings, both nationally and within their circuits. The [FJC](#) supplemented these programs with other training opportunities and resources relating to topics such as civility and management skills (offered to judges, court unit executives, and supervisors).

Expanded Outreach to Current and Future Lawyers Working in the Judiciary

The Judiciary continued to engage in outreach efforts to law schools and the National Association of Law Placement (NALP) to reach future lawyers interested in joining the Judiciary as law clerks or other legal professionals. The programs focused on increasing awareness about the Judiciary's workplace conduct policies and resources. In 2022, the Judiciary's online application system for law clerks was also updated to provide easily accessible information about workplace conduct policies and points of contact for confidential advice and questions. In 2023, information and training sessions were held for both NALP members and law clerks.

Administration of the Judiciary’s First National Workplace Survey

In September 2022, the [Judicial Conference](#) approved the administration of periodic national workplace surveys by the [Federal Judicial Center \(FJC\)](#). In 2023, the FJC sent the first of such surveys to all current Judiciary employees. Throughout FY 2023, the FJC evaluated and analyzed the results.

Increased Transparency in Statistical Reporting on Judicial-Conduct and Judicial-Disability Act Complaints Involving Workplace Conduct

To increase transparency regarding workplace-related complaints filed against judges pursuant to the *JC&D Rules*, since 2020, the Judiciary has tracked and published the number of JC&D complaints filed by Judiciary employees. With respect to JC&D complaints filed by employees, in FY 2021, 11 out of the 1,304 total complainants in JC&D matters were Judiciary employees. In FY 2022, one of the 1,533 total complainants in JC&D matters was a Judiciary employee. In FY 2023, three of the 1,391 total complainants in JC&D matters were Judiciary employees.

These numbers reflect the fact that nearly all JC&D complaints are filed by individuals who wish to challenge a judge’s decision or ruling in their case. These numbers also reflect the fact that unlike the Judiciary’s EDR options for resolution, which require the aggrieved employee to initiate the EDR matter, a JC&D proceeding does not need to be initiated by an employee. Instead, anyone may file a JC&D complaint alleging that a judge engaged in one of the forms of cognizable judicial misconduct, including conduct involving the chambers workplace. In addition, JC&D proceedings may also be initiated by chief circuit judges if they find probable cause to believe that judicial misconduct, which includes judicial misconduct in the workplace, has occurred. Information concerning potential judicial misconduct may be shared with the chief circuit judge by anyone, including judges pursuant to their ethical duties under the [Code of Conduct for United States Judges](#) and obligations under the *JC&D Rules*.

Increased Employee Engagement in EDR

The Judiciary’s employment dispute resolution (EDR) processes include several options for resolution of workplace conduct concerns. An EDR matter may be initiated through an informal and flexible process referred to as “Assisted Resolution” or through the “Formal Complaint” process. Between FY 2021 and FY 2023, 178 total EDR matters were initiated under locally adopted EDR plans based on the *Model EDR Plan* or the *Model FPDO EDR Plan*. In FY 2023, there were 94 active EDR matters across the Judiciary – 58 EDR matters opened in FY 2023 and 36 EDR matters opened in FY 2022 pending resolution at the start of FY 2023. In FY 2021, by comparison, there were 53 active EDR matters – 37 EDR matters opened in FY 2021 and 16 EDR matters pending resolution at the start of FY 2021.

Extensive Use of EDR to Address Concerns About Abusive Conduct – a Workplace Protection Unique to the Judiciary

Among the 26 different forms of wrongful conduct recognized under national Judiciary policy that may be alleged in an EDR matter,⁴ abusive conduct was the single most frequent individual allegation raised between FY 2021 and FY 2023 – appearing in 59% of EDR matters (105 out of 178 EDR matters). The frequent use of EDR to enforce the Judiciary’s protection of employees from abusive conduct - a unique protection offered in the Judiciary and intended to hold judges and employees to the highest standards of professionalism - is a significant milestone in ensuring respect and civility in the Judiciary workplace and fostering an exemplary workplace.

The second most common individual allegation raised in EDR matters opened between FY 2021 and FY 2023 was retaliation based on reporting or opposing wrongful conduct, which appeared in 50% of EDR matters (89 out of 178 EDR matters). By comparison, race/color discrimination (the most frequent form of discrimination alleged) was raised in 28% of EDR matters (50 out of 178 EDR matters).

Extensive Use of EDR to Address Claims of Discrimination and Harassment

As set forth in [Part II](#) of this Report, the Judiciary’s workplace protections can be grouped into five general categories of wrongful conduct – discrimination (based on 10 distinct protected categories⁵), discriminatory harassment (based on the same protected categories), abusive conduct,⁶ retaliation (based on two forms⁷), and violations of certain other federal employment laws. When individual allegations within these categories are aggregated, discrimination was the most frequent category of claims. Between FY 2021 and FY 2023, 62% of EDR matters contained at least one allegation of discrimination based on a protected category. By comparison, 36% of EDR matters contained at least one allegation of discriminatory harassment. Among EDR claims based on discrimination, race/color discrimination was the most common individual allegation. Among claims based on discriminatory harassment, sex/gender harassment was the most common individual allegation.⁸

⁴ These 26 different allegations include individual allegations based on discrimination and discriminatory harassment based on the 10 protected categories, as well as abusive conduct, whistleblower protection, retaliation for reporting or opposing wrongful conduct in the workplace, and violations of other employment statutes as detailed in the data in [Part III](#) of this Report. Because employing offices are permitted by Judiciary policy to expand workplace protections beyond what is required by national Judiciary policy, some adopted EDR plans may also recognize additional protected categories or forms of wrongful conduct.

⁵ These protected categories include race, color, national origin, sex/gender, pregnancy, sexual orientation, gender identity, disability, age, and religion. For purposes of the data presented in this Annual Report, allegations of race and color are combined into one category of discrimination.

⁶ The category of abusive conduct was recognized by the Judiciary as a workplace protection in 2019 and is not available in any federal employment statute.

⁷ EDR may be used to address claims of retaliation based on either violation of the Judiciary’s whistleblower protections or retaliation based on reporting or addressing wrongful conduct concerns.

⁸ Sex/gender harassment includes, but is not limited to, sexual harassment.

Current Court Employees Initiated the Majority of EDR Matters Between FY 2021 and FY 2023

EDR matters are actions involving an employee (current or former, or interviewed applicant) seeking relief or remedies from an employing office when harm from wrongful conduct in the workplace is alleged. As set forth in [Figure 1](#), there are three general categories of employers in the Judiciary – courts (including judges), probation and pretrial services offices (PPSOs), and federal public defender organizations (FPDOs). In FY 2023, employees of courts accounted for approximately 60% of the Judiciary workforce, employees of probation and pretrial services offices accounted for 28% of the Judiciary workforce, and employees of federal public defender organizations (FPDOs) accounted for 12% of the Judiciary workforce. Data for FY 2021 through FY 2023 shows that most EDR matters opened between FY 2021 and FY 2023 were initiated by current Judiciary employees of these employing offices (64% of 178 EDR matters). By comparison, former Judiciary employees initiated 34% of EDR matters, and applicants initiated 2% of EDR matters between FY 2021 and FY 2023.

The frequency of EDR matters initiated against each of the three categories of Judiciary employers between FY 2021 through FY 2023 was roughly proportional to their share of the Judiciary workforce: 44% of EDR matters involved courts (including judge’s chambers) as employing offices; 33% of EDR matters involved PPSOs as employing offices; and 23% of EDR matters involved FPDOs as employing offices.

EDR matters involving courts as employing offices include claims raised by clerk’s office staff, chambers staff, and other court employees (such as in other court offices) or court appointees (such as unit executives). EDR data for FY 2021 through FY 2023 shows that 72% of EDR matters involving courts as employing offices (78 EDR matters) were initiated by employees of clerk’s offices; 14% were initiated by chambers staff; and 14% were initiated by other court employees.

In EDR matters involving PPSOs as employing offices (59 EDR matters), 76% of EDR matters were initiated by probation or pretrial services officers and 24% were initiated by other staff.

In EDR matters involving FPDOs as employing offices (41 EDR matters), 52% were initiated by non-legal or administrative staff and 48% were initiated by legal staff (such as assistant public defenders or research and writing attorneys).

EDR Was Successful in Helping Employees and Employing Offices Reach a Mutual Agreement on Appropriate Relief or Action to Address Wrongful Conduct

Of the 178 EDR matters opened between FY 2021 and FY 2023, 150 were concluded as of September 30, 2023. Of these 150 concluded EDR matters, approximately 41% were resolved through an agreed mutual resolution of the issues or a written settlement agreement. By comparison, only 20% of EDR matters were concluded by a written decision on the merits in a Formal Complaint proceeding. The remaining EDR matters were disposed of on other grounds, such as dismissal (for example, if the matter did not allege conduct subject to EDR) or voluntary withdrawal.

Most EDR Matters Involved the Assisted Resolution Process, but Use of the Formal Complaint and Review of Decision Processes Increased Significantly

Each EDR matter can include multiple EDR processes, including an Assisted Resolution, a Formal Complaint proceeding, and an appeal in a Formal Complaint proceeding (referred to as a “Review of Decision”). Data for FY 2021 through FY 2023 demonstrates increased use of all these EDR processes.

Although optional in many cases,⁹ most EDR matters involved use of the informal and flexible Assisted Resolution process in EDR matters opened between FY 2021 and FY 2023 (122 out of 178 EDR matters – 69%). The frequent use of Assisted Resolution is consistent with feedback received by the Workplace Conduct Working Group that employees wanted an informal and flexible option to address concerns about workplace conduct.

This data also shows that use of the Formal Complaint process, and subsequent Requests for Review of Decision, have increased significantly. In FY 2023, 35 Formal Complaints were filed and 18 Reviews of Decision were requested. By comparison, in FY 2021, 13 Formal Complaints were filed and 4 Reviews of Decision were requested. This increased engagement is consistent with the expansion of resources and training for employees to understand and pursue their options for resolution under their adopted EDR plans.

⁹As explained in [Part III of this Report](#), the *Model EDR Plan* and *Model FPDO EDR Plan* require use of the Assisted Resolution process in cases alleging abusive conduct, but this procedural requirement has been eliminated in some local EDR plans. Additionally, some local EDR plans require Assisted Resolution for all allegations of wrongful conduct.

PART I: THE JUDICIARY’S RESPONSE TO THE CHIEF JUSTICE’S CALL TO ACTION

Chief Justice John G. Roberts, Jr. acknowledged in his [2017 Year End Report](#) that the Judiciary, like other employers, is not immune from concerns of workplace discrimination or harassment and called upon the Judiciary to “ensure an exemplary workplace for every judge and every court employee.” In his [2018 Year End Report](#) and [2021 Year End Report](#), the Chief Justice again emphasized the Judiciary’s commitment to treating employees with fairness, dignity, and respect.

Following the Chief Justice’s call to action, the Judiciary responded in the following ways: (1) creating the Federal Judiciary Workplace Conduct Working Group to recommend necessary improvements to existing workplace policies and dispute resolution processes; (2) approving recommended changes to the Judiciary’s codes of conduct and *JC&D Rules*; (3) incorporating additional strategies and goals into the [Strategic Plan for the Federal Judiciary](#) aimed at promoting dignity and respect in the Judiciary workplace; and (4) adopting a new *Model EDR Plan* and new *Model FPDO EDR Plan* that have been universally implemented across the Judiciary, creating enforceable workplace protections.

The Workplace Conduct Working Group

At the request of the Chief Justice, the Director of the Administrative Office of the United States Courts formed the Federal Judiciary Workplace Conduct Working Group in January 2018 to assess the Judiciary’s existing policies and procedures for addressing workplace conduct concerns and to make recommendations for improvements.

Membership. The AO Director serves as Chair of the Working Group, which includes seven additional members: the Counselor to the Chief Justice of the United States; the Director of the FJC; two circuit judges; two district court judges; and a circuit executive. The Chair of the Judicial Conference Committee on Judicial Resources serves as an *ex officio* member of the Working Group.

Recommendations. Since its creation, the Working Group has continued to evaluate the Judiciary’s workplace conduct policies and available resources for employees. This process includes soliciting feedback from Judiciary employees (including current and former law clerks, court employees, and members of the AO’s advisory councils), as well as outside experts (including the co-chairs of the June 2016 United States Equal Employment Opportunity Commission (EEOC) Select Task Force on the Study of Harassment in the Workplace).

Based on this input, the Working Group has made approximately 40 total recommendations, detailed in its [June 2018](#) and [March 2022](#) reports. The [June 2018](#) Working Group Report contained over 30 recommendations, all of which have resulted in either action by the Judicial Conference or other implementation within the Judiciary. For example, and as set forth below, the Judicial Conference updated the *Model EDR Plan*, and clarified language in the Judiciary’s codes of conduct and *JC&D Rules* relating to workplace conduct, as set forth in [Appendix C](#) and [Appendix D](#), respectively. These recommendations have also led to the creation of new positions and resources at the national, circuit, and local level to help address workplace conduct concerns and increase training opportunities relating to the Judiciary’s workplace conduct policies and EDR options.

Most recently, in its March 2022 report, the Working Group made nine additional recommendations, which included various policy considerations, the use of periodic national workplace surveys, enhanced data collection, and the publication of this Annual Report on the Judiciary Workplace.

Actions by the Judicial Conference of the United States

When Working Group recommendations concern Judiciary policy, those recommendations are then submitted for consideration by the relevant committees of the Judicial Conference. [Appendix A](#) details the specific actions the Judicial Conference has taken since 2018 relating to workplace conduct. At its [September 2022](#) meeting, the Judicial Conference approved the administration of periodic national workplace surveys, which the FJC administered for the first time in 2023. Other Judicial Conference actions relating to the Judiciary workplace include:

- Expansion of workplace protections (see [Part II](#))
- Amendments to the Code of Conduct for United States Judges, Code of Conduct for Judicial Employees, and Code of Conduct for Federal Public Defender Employees to more clearly address workplace conduct, encourage judges and employees to take appropriate action to address workplace conduct concerns, and clarify that confidentiality obligations do not prevent reporting workplace conduct concerns ([Part II](#) and [Appendix C](#))
- Approval of a new *Model EDR Plan* with streamlined processes and procedures to address concerns of wrongful conduct in the Judiciary workplace ([Part III](#))
- Approval of a new *Model FPDO EDR Plan* to include provisions tailored to the work of FPDOs, such as language clarifying that FPDO employees engaged in EDR processes must continue to protect information subject to the attorney-client privilege
- Amendments to the *JC&D Rules* to clearly address judicial misconduct in the workplace and make other necessary clarifications ([Part III](#) and [Appendix D](#))
- Updates to the *Strategic Plan for the Federal Judiciary* to prioritize promoting dignity and respect in the Judiciary workplace ([Appendix B](#))

Universal Adoption of Updated EDR Plans

The [Model EDR Plan](#), approved by the Judicial Conference in 2019, sets forth the EDR processes that may be used to enforce the Judiciary’s workplace protections against individual employing offices in the Judiciary. In 2021, the Judicial Conference approved the [Model FPDO EDR Plan](#), which tailors the language of the *Model EDR Plan* to FPDOs, and addresses some of the unique features of FPDOs, including their obligation to protect their clients’ interests.

2020 STRATEGIC PLAN FOR THE FEDERAL JUDICIARY

Goal 4.3c:

Enhance accountability and effective redress, where appropriate, through universal adoption and conscientious application of the Model Employment Dispute Resolution Plan.

Judiciary policy – as set forth by the Judicial Conference – requires all federal courts to adopt and implement an EDR Plan based on the *Model EDR Plan*. FPDOs must adopt an EDR plan based on the *Model FPDO EDR Plan* if authorized to do so by their court of appeals.¹⁰ Adoption of EDR plans at the local level makes the Judiciary’s workplace protections enforceable. This process protects the constitutional and statutory independence of each court and FPDO, which have the authority to expand workplace protections and tailor the language and procedures in their adopted EDR plan to address local needs and practices. Circuit judicial councils also have a role in enforcing the Judiciary’s workplace rights and remedies through review and approval of any local modifications to the provisions of the *Model EDR Plan* or the *Model FPDO EDR Plan*.

Following the Judicial Conference’s approval of the *Model EDR Plan* and the *Model FPDO EDR Plan*, judicial councils, courts, and FPDOs across the United States began the process of adopting updated local EDR plans based on the *Model EDR Plan* and the *Model FPDO EDR Plan*. As of the end of 2023, updated EDR plans based upon the *Model EDR Plan* – as modified with approval by the appropriate circuit judicial council – have been universally adopted and implemented in each of the over 200 federal courts.

Similarly, as of the end of 2023, updated EDR plans based upon the *Model FPDO EDR Plan* – as modified with approval by the appropriate circuit judicial council – have been universally adopted and implemented to cover each FPDO in the United States. FPDOs are now covered by either an updated court of appeals EDR plan to incorporate the provisions of the *Model FPDO EDR Plan* or a new, standalone FPDO EDR plan based on the *Model FPDO EDR Plan*.

Through this implementation process, the Judiciary’s national workplace protections are now enforceable against employing offices across the Judiciary through updated EDR plans that make the Judiciary’s EDR processes more streamlined, flexible, and accessible.

¹⁰ Prior to the approval of the *Model FPDO EDR Plan*, FPDOs were covered by their court of appeals EDR Plan based on the *Model EDR Plan*. Authorization from the court of appeals allows the court of appeals to determine whether to continue to cover FPDOs under their EDR plan as amended to include provisions of the *Model FPDO EDR Plan* or to allow the FPDO to adopt its own EDR plan.

PART II: ENFORCEABLE WORKPLACE PROTECTIONS AND STRINGENT STANDARDS OF CONDUCT

The [Strategic Plan for the Federal Judiciary](#) sets forth the Judiciary’s commitment to ensuring employees are treated with dignity and respect and enjoy a workplace free from discrimination, harassment, retaliation, and abusive conduct. This commitment is established through a variety of interrelated Judiciary policies, internal rules and procedures, and federal statutes that set forth standards of conduct, workplace protections, and processes for accountability and discipline.

Judiciary policy provides employees with specific protections from discrimination, harassment, abusive conduct, and retaliation, as well as protection for whistleblowers and other workplace rights. To further ensure appropriate and respectful conduct in the workplace, the [Code of Conduct for United States Judges](#), [Code of Conduct for Judicial Employees](#), and [Code of Conduct for Federal Public Defender Employees](#) establish the ethical duties and high standards of conduct and professionalism expected of judges and all who work in the Judiciary. These protections and duties are designed to work in tandem to promote and sustain an exemplary Judiciary workplace.

2020 STRATEGIC PLAN FOR THE FEDERAL JUDICIARY

Strategy 2.1:

Assure high standards of conduct and integrity for judges and employees.

Strategy 4.3:

Ensure an exemplary workplace free from discrimination, harassment, retaliation, and abusive conduct.

As explained in [Part III](#) of this Report, accountability is also a critical component of ensuring an exemplary workplace, which includes enforcement of workplace rights through the processes and procedures adopted in local EDR plans in accordance with the [Model EDR Plan](#), and individual accountability for wrongful conduct through separate and independent disciplinary or personnel actions.

Workplace Rights and Protections

Promoting an exemplary workplace in the Judiciary depends on policies that protect employees from discrimination, harassment, and retaliation, as well as other forms of wrongful conduct. These protections are established through Judiciary policy, which incorporates the definitions of discrimination found in Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, and the Age Discrimination in Employment Act of 1967. In addition to these rights, in 2019, the Judiciary expanded its workplace protections to include protection from abusive conduct, regardless of discriminatory intent or motive – a workplace protection that goes beyond what is provided under federal employment discrimination statutes.

As of 2023, national Judiciary policy provides employees with the following protections:

Protection from Abusive Conduct. Judges and Judiciary employees are prohibited from engaging in abusive conduct, defined as “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.”

Protection from Unlawful Discrimination and Harassment. Judiciary policy prohibits discrimination and harassment that would violate Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and the Rehabilitation Act of 1973. Protected categories include race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age (40 years and over), and disability.

Protection from Retaliation. Judges and Judiciary employees are prohibited from engaging in intimidation, retaliation, or discrimination against employees who exercise their employment rights or report or oppose wrongful conduct.

Reasonable Accommodations for Persons with Disabilities. Judiciary policy requires employing offices to provide reasonable accommodations for employees consistent with the Americans with Disabilities Act of 1990.

Family and Medical Leave. Covered employees (those covered by the Annual and Sick Leave Act and who meet the eligibility requirement of one year of current or prior federal service) are entitled to protections under the Family and Medical Leave Act of 1993 (FMLA) when they need leave for their serious health conditions or those of close family members, or for the birth, adoption, or foster care placement of a child.

Protection for Whistleblowers. The Judiciary’s whistleblower protection policy prohibits retaliation against an employee who reasonably and in good faith reports waste, fraud, and abuse; violations of laws, regulations and rules; other conduct that constitutes gross mismanagement; or threats to public health or safety.

Members of the Uniformed Services. Employees who also serve in the uniformed services are protected from employment discrimination and are provided certain reemployment rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Hazard-Free Workspaces. Employing offices must comply with occupational safety and health standards and provide workplaces free of certain hazards as provided in the Occupational Safety and Health Act of 1970 (OSHA).

Office Closings and Mass Layoffs. Under certain circumstances, employees must be notified of an office closing or of a mass layoff at least 60 days in advance of the event as provided under the Worker Adjustment and Retraining Notification (WARN) Act.

Polygraph Testing Prohibition. Judiciary policy prohibits the use of polygraph testing of employees consistent with the Employee Polygraph Protection Act of 1998 (EPPA).

Codes of Conduct and the Judiciary Workplace

A key aspect of the Judiciary’s efforts to ensure the highest levels of respect, integrity, and professionalism in the workplace is the obligation of judges and Judiciary employees to adhere to stringent standards of conduct. In March 2019, the Judicial Conference approved numerous amendments to the [Code of Conduct for United States Judges](#) and the [Code of Conduct for Judicial Employees](#) clarifying the ethical duties of judges and employees relating to workplace conduct. Similar amendments were made to the [Code of Conduct for Federal Public Defender Employees](#) in March 2020. A list of specific amendments to the codes of conduct is provided in [Appendix C](#).

Promoting Respect and Civility in the Workplace. As amended in March 2019 and March 2020, the Judiciary’s codes of conduct make clear that a judge or employee’s official duties include demonstrating respect and civility in the Judiciary workplace. For judges, under Canons 2A, 3, and 3B and the related commentary in [the Code of Conduct for United States Judges](#), this includes a duty to refrain from any conduct that is harassing, abusive, prejudiced or biased, as well as refraining from any retaliatory conduct directed at anyone who reports wrongful conduct. As expressed in the Commentary to Canon 2A, “[p]ublic confidence in the judiciary is eroded by irresponsible or improper conduct by judges, including harassment and other inappropriate workplace behavior.”

For Judiciary employees, which includes FPDO employees, similar duties are set forth in Canon 3C of the applicable codes of conduct, which provide that judicial and FPDO employees “should be patient, dignified, respectful, and courteous to all persons with whom the judicial employee deals in an official capacity, including other employees and the general public.” Canon 3C of these codes also provides that judicial and FPDO employees “should not engage in sexual or other forms of harassment of court employees or retaliate against those who report misconduct.”

Taking Appropriate Action to Address Workplace Conduct Concerns. The [Code of Conduct for United States Judges](#) provides that judges should not tolerate inappropriate or unprofessional conduct by those under their supervision. Canon 3B(4) includes a duty to ensure that personnel under a judge’s direction uphold the same high standards of conduct as apply to the judge. Similar supervisory duties are set forth in Canon 3C in the [Code of Conduct for Judicial Employees](#) and the [Code of Conduct for Federal Public Defender Employees](#).

CODE OF CONDUCT FOR UNITED STATES JUDGES

Canon 3: . . . The judge should perform [the duties of the office] with respect for others, and should not engage in behavior that is harassing, abusive, prejudiced, or biased

Canon 3B(4): A judge should practice civility, by being patient, dignified, respectful, and courteous, in dealings with court personnel, including chambers staff. A judge should not engage in any form of harassment of court personnel. A judge should not retaliate against those who report misconduct. A judge should hold court personnel under the judge’s direction to similar standards.

As amended, the *Code of Conduct for United States Judges* now clearly provides that judges should also take appropriate action to address concerns of wrongful conduct brought to their attention, even if the judge is not in a supervisory role with respect to the alleged wrongdoer. As explained in the amended Commentary to Canon 3B(6), “[a]ppropriate action depends on the circumstances, but the overarching goal of such action should be to prevent harm to those affected by the misconduct and to prevent recurrence.” For example, appropriate action may include direct communication with the person who engaged in the inappropriate behavior, reporting the conduct to the chief judge or other appropriate authorities or persons, or cooperating with or participating in judicial disciplinary proceedings.

CODE OF CONDUCT FOR UNITED STATES JUDGES

Canon 3B(6): A judge should take appropriate action upon receipt of reliable information indicating the likelihood that a judge’s conduct contravened this Code, that a judicial employee’s conduct contravened the Code of Conduct for Judicial Employees, or that a lawyer violated applicable rules of professional conduct.

CODE OF CONDUCT FOR JUDICIAL EMPLOYEES

Canon 3C(1): . . . A judicial employee should take appropriate action upon receipt of reliable information indicating a likelihood of conduct contravening this code. Appropriate action depends on the circumstances and may include, for example, reporting such conduct to a supervisor, court executive, or chief judge.

Similarly, Judiciary employees and FPDO employees also have a duty under Canon 3C of the *Code of Conduct for Judicial Employees* and *Code of Conduct for Federal Public Defender Employees* to take appropriate action to address potential violations of the codes of conduct relating to workplace behavior.

Confidentiality and Reporting Wrongful Conduct in the Workplace. To encourage reporting of workplace conduct concerns, the Judicial Conference also approved amendments in 2019 to clarify the confidentiality provisions in Canon 3D of the *Code of Conduct for Judicial Employees* and the *Code of Conduct for Federal Public Defender Employees*. Canon 3D now makes clear that the general confidentiality obligations and restrictions on disclosure of certain workplace information does not prevent an employee or former employee from reporting or disclosing misconduct, including sexual or other forms of harassment, by a judge, supervisor, or other person. This supplements action taken in March 2018 to rescind the Judiciary’s Model Confidentiality Statement for revision and clarification.

PART III: ACCOUNTABILITY FOR WRONGFUL CONDUCT IN THE JUDICIARY WORKPLACE

Accountability is a core value in the [Strategic Plan for the Federal Judiciary](#) and the Judiciary has multiple processes in place to ensure accountability for wrongful conduct in the workplace. Employing offices may address workplace conduct concerns brought to their attention through local resolution of the matter outside of EDR. To ensure accountability and responsiveness, an employee may also seek relief and remedies from their employing office through their applicable EDR Plan.

While EDR processes ensure accountability for an *employing court or office*, individual accountability for one who engages in wrongful conduct is also critical. When the conduct of a judge is involved, the [Judicial Conduct and Disability Act of 1980](#), 28 U.S.C. §§ 351–364 (the JC&D Act), establishes a process to address allegations that a federal judge engaged in “conduct prejudicial to the effective and expeditious administration of the business of the courts” or has become, by reason of a mental or physical disability, “unable to discharge all the duties” of the judicial office. The [JC&D Rules](#) govern proceedings under the JC&D Act. For Judiciary employees, the supervisory or hiring authority determines the appropriate personnel or disciplinary action based on the nature of the conduct at issue. JC&D processes and office disciplinary procedures, while independent, can run prior to, alongside, or after EDR processes.

Confidential Reporting and Local Resolution Outside of EDR

One cornerstone of the Judiciary’s workplace conduct policies is to encourage employees to report concerns as soon as possible. Reports of workplace conduct concerns can be made by anyone who experiences, witnesses, or learns about the conduct in question. In cases of egregious conduct, reporting gives the relevant chief judge, federal public defender, or unit executive an opportunity to consider options for immediate interim relief to protect the aggrieved employee, such as alternate work arrangements, while an investigation into the matter proceeds and other appropriate remedial or corrective action is considered.

In situations where the reported conduct is minor – and does not rise to the level of wrongful conduct - early reporting can facilitate prompt action outside the EDR process to address the problem before it escalates. Early action can also help prevent recurrence of the conduct and can quickly restore professional working relations among the parties involved.

To maximize trust and flexibility when reporting concerns about wrongful conduct, Judiciary employees can choose to confidentially share their workplace conduct concerns with a number of designated individuals at the local, circuit, or national levels - whomever makes them most comfortable. For example, employees may raise concerns to local managers, supervisors, human resources professionals, EDR Coordinators, or judges. Employees who want to confidentially discuss their concerns with someone outside of their court or employing office can also contact their circuit DWR or the OJI for confidential informal advice on options to address the situation, including use of the EDR process.

To further reduce barriers to reporting workplace conduct issues, the OJI also maintains a portal on the Judiciary’s intranet site to allow for anonymous reporting. Anonymous information received by the OJI is transmitted to the appropriate chief judge, federal public defender, or unit

executive so that it can be addressed appropriately. In such cases, because there is no identified employee, investigation into the matter and any appropriate action to address the concerns occurs outside the EDR process.

If reliable information concerning wrongful conduct is reported to judges, unit executives, federal public defenders, and supervisors, they must take appropriate action to address the conduct regardless of whether the employee pursues EDR to seek relief or remedies. This obligation is consistent with the *Model EDR Plan* and the *Model FPDO EDR Plan* – as implemented locally - and the Judiciary’s codes of conduct. If leadership fails to address reliable reports of wrongful conduct, they may be subject to personnel action (or JC&D action, for judges), and the EDR processes remain available to employees to pursue relief or remedies from their employing office.

Employer Accountability and Use of the Judiciary’s EDR Processes

If a court unit or employing office fails to provide the workplace protections required under Judiciary policy and embodied in that court or office’s EDR plan,¹¹ an employee (current or former) or interviewed applicant may initiate an EDR matter to hold the employing office responsible and seek relief. As such, the substantive workplace rights provided by each court’s adopted EDR plan are mandatory for that court unit or employing office, including anyone acting on its behalf.

Each adopted EDR plan has incorporated the EDR options for resolution established under the [Model EDR Plan](#).¹² This includes the ability of employees (and others covered by their EDR plan) to seek confidential informal advice about EDR, local resolution outside of EDR, and other accountability processes from their EDR Coordinator, Director of Workplace Relations, or the national Office of Judicial Integrity.

Available EDR options for resolution also include a flexible and informal Assisted Resolution process, as well as the Formal Complaint process, a formal administrative proceeding overseen by a federal judge who serves as the Presiding Judicial Officer. Parties to a Formal Complaint proceeding also have the ability to seek an appeal of any final written decision in the matter to the circuit judicial council. The appeal process is referred to as a Review of Decision. The appeal process signifies the important role of circuit judicial councils in ensuring enforcement of locally adopted EDR plans.

EDR Processes – Assisted Resolution and Formal Complaints. Unlike the Judiciary’s previous EDR policies, which required pre-complaint counseling and mediation, the [Model EDR Plan](#) provides employees with the flexibility in most cases to choose how they wish to initiate their

¹¹ The workplace protections required under Judiciary policy, as discussed in [Part II](#), are the minimum protections required. In adopting an EDR Plan based on the *Model EDR Plan*, court units or employing offices may expand, but should not diminish or curtail, any of the rights or remedies afforded to employees. Modifications to the *Model EDR Plan* must be approved by the appropriate circuit judicial council.

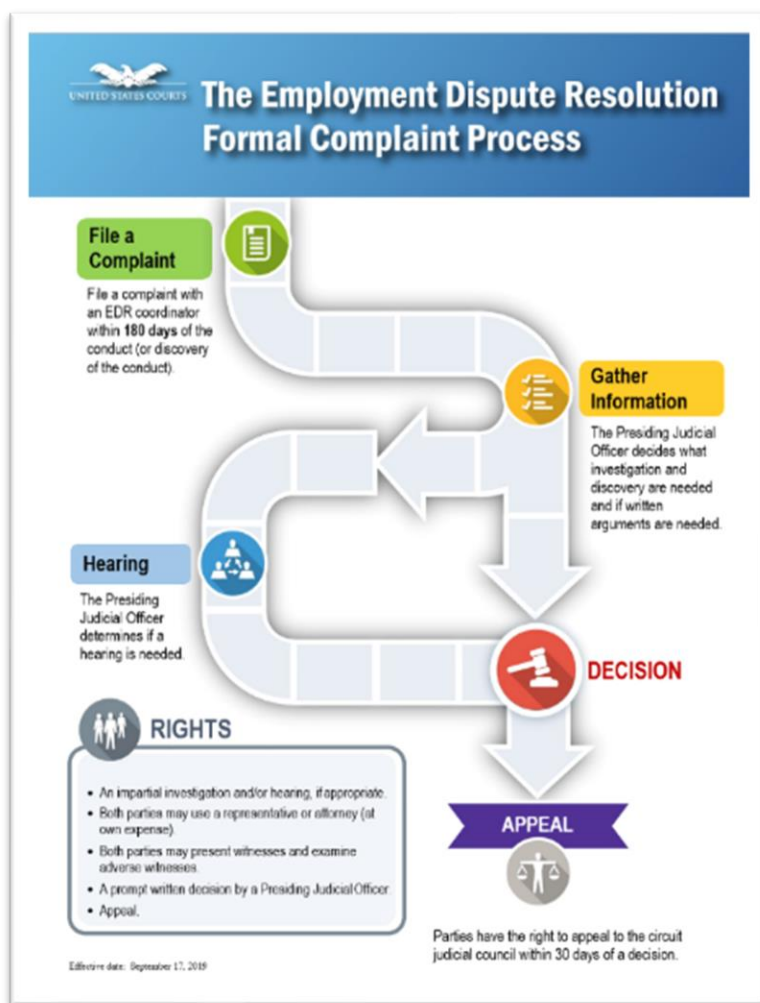
¹² Locally adopted EDR plans may have certain variations from the *Model EDR Plan* or *Model FPDO EDR Plan* in the specific procedures used in these EDR processes, but all courts and employing offices offer employees and interviewed applicants the same EDR options for resolution.

EDR matter – through a Request for Assisted Resolution or the filing of a Formal Complaint.¹³ This policy change reflects the Working Group’s engagement with Equal Employment Opportunity Commission (EEOC) experts, as well as feedback from Judiciary employees who requested a more flexible, less formal mechanism to raise and address workplace conduct concerns.

Assisted Resolution may involve one or more informal efforts to resolve the employee’s concerns, including facilitated discussion with the individual whose behavior is at issue, preliminary investigation or evaluation of the alleged wrongful conduct, or voluntary mediation with an experienced mediator (such as a circuit mediator or a magistrate judge). During Assisted Resolution, temporary interim relief for the employee may also be provided, such as an alternative work arrangement, if the situation involves egregious conduct making the working situation for the employee untenable.

If Assisted Resolution does not resolve the matter, the employee still retains the right to file a Formal Complaint. While there is no time limit to file a Request for Assisted Resolution, a Formal Complaint must be filed within 180 days of the alleged violation of the employee’s workplace protections, or when the employee knows or should have known of the alleged violation.¹⁴

Unlike Assisted Resolution, the Formal Complaint process has a specified structure. Upon filing of the Formal Complaint, a copy is immediately sent to the appropriate Chief Judge, who will then promptly appoint a federal judge to serve as the Presiding Judicial Officer (PJO) to oversee the proceeding. The Chief Judge may assign a judge from the same court or may assign a judge from another court to serve as PJO (with the approval of the other court’s Chief Judge). The parties also have the right to seek the



¹³ The [Model EDR Plan](#) requires use of the Assisted Resolution process prior to filing a Formal Complaint only in cases of abusive conduct, which is a workplace protection established through Judiciary policy in 2019 and does not involve allegations of discrimination or harassment based on protected class. Some locally adopted EDR plans have eliminated the procedural requirement to use Assisted Resolution in matters alleging abusive conduct. Conversely, some locally adopted EDR plans require Assisted Resolution in all EDR matters.

¹⁴ An extension of this 180-day deadline may be granted by a Chief Judge or Presiding Judicial Officer for good cause.

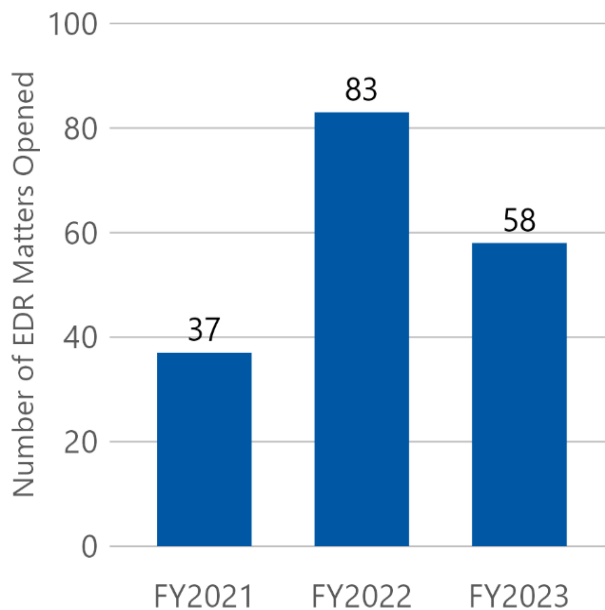
disqualification of a PJO based on any conflict of interest.

Once designated, the PJO will then provide a copy of the Formal Complaint to the responding court or other employing office, order an investigation or allow discovery as appropriate, and hold a hearing if necessary. Both parties may present evidence and cross-examine witnesses at any hearing. At the conclusion of the proceeding, the PJO issues a written decision and, if warranted, orders remedies. Both parties may have the assistance of attorneys or representatives throughout the Formal Complaint proceeding. Following a written decision by a PJO, either party may appeal the PJO's decision within 30 days to the circuit judicial council through a written Request for Review of Decision.

Increased Use of EDR to Address Workplace Conduct Concerns. Figure 2 represents the number of EDR matters opened between FY 2021 and FY 2023, regardless of whether initiated by a Request for Assisted Resolution or a Formal Complaint. In total, 178 EDR matters were opened between FY 2021 and FY 2023.

Figure 2 also demonstrates a notable increase in the overall number of EDR matters opened in FY 2022 and FY 2023 compared to FY 2021. This increase, particularly in FY 2022, coincides with employees returning to the workplace following the COVID-19 pandemic. This increase in EDR matters is also consistent with the Judiciary's policy changes intended to encourage reporting (including emphasis on the duty to take appropriate action to address wrongful conduct), the creation of multiple resources for employees to contact at the national, circuit, and local levels to consider all available options to resolve the matter, and the Judiciary's expanded education and outreach efforts over the same period.

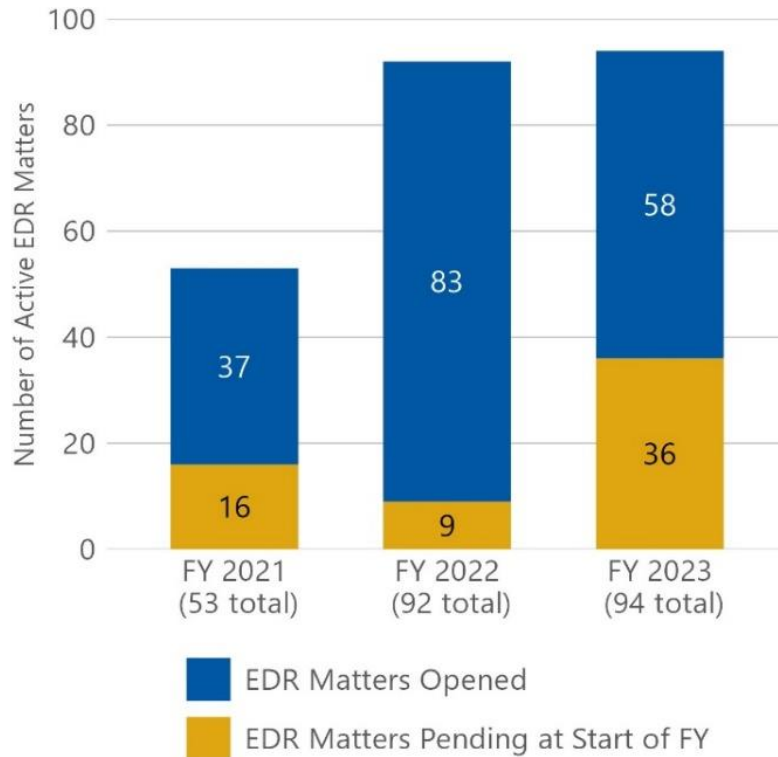
Figure 2: EDR Matters Opened by FY



The increased employee use of EDR between FY 2021 and FY 2023 has substantially increased the

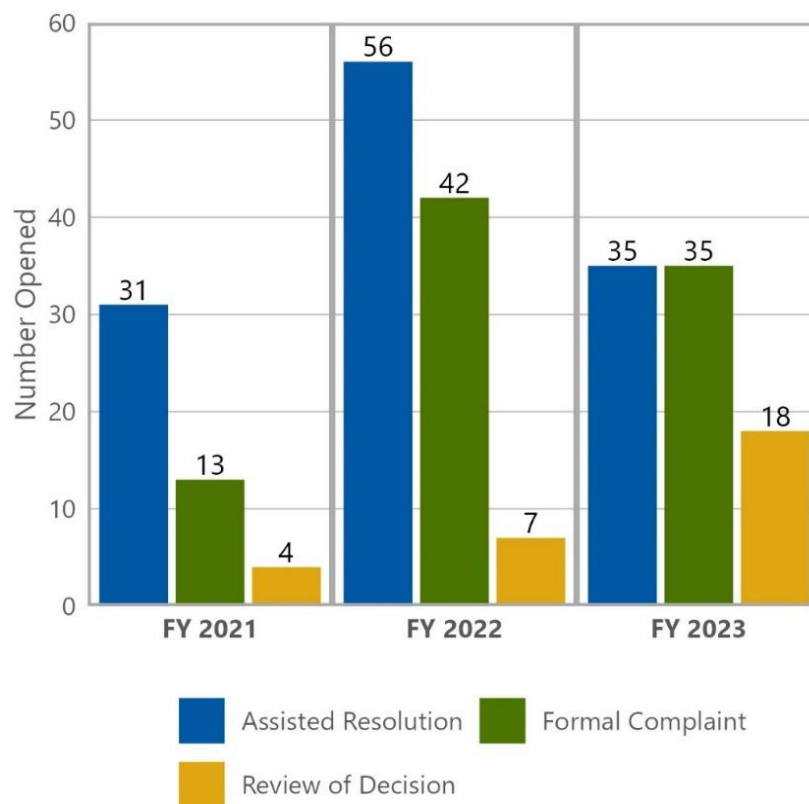
Judiciary’s active EDR workload each fiscal year. As shown in **Figure 3**, there were a total of 94 active EDR matters in FY 2023. This includes the 58 new EDR matters opened in FY 2023, and 36 pending EDR matters carried over from FY 2022. By comparison, the Judiciary’s FY 2021 EDR activity included 53 EDR matters – 37 EDR matters opened in FY 2021, and 16 pending EDR matters carried over from FY 2020.

Figure 3: Active EDR Matters by FY



Increased Use of Formal Complaint and Review of Decision Processes. Each of the 178 EDR matters opened between FY 2021 and FY 2023 included one or more of the EDR processes provided in local EDR plans based on the *Model EDR Plan*. These EDR processes include Assisted Resolution, Formal Complaint, and Review of Decision. **Figure 4** shows the frequency with which each of these EDR processes was used between FY 2021 and FY 2023.¹⁵ In total during that period, overall EDR activity included 122 Requests for Assisted Resolution, 90 Formal Complaints, and 29 Requests for Review of Decision.¹⁶ As shown in this data, the filing of Formal Complaints, and subsequent Requests for Review of Decision, increased significantly since FY 2021.

**Figure 4: Frequency of Use of EDR Processes
FY 2021 through FY 2023**



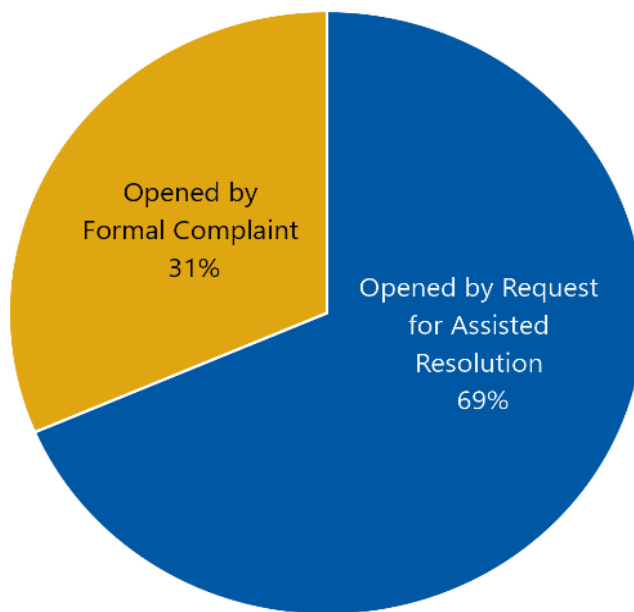
¹⁵ The data in **Figure 4** is based on the fiscal year in which the particular EDR process was requested/filed and not the fiscal year in which the EDR matter was opened. For example, an EDR matter could be opened in FY 2021 by requesting Assisted Resolution, which could be followed by a Formal Complaint filed in FY 2022, and a Review of Decision requested in FY 2023. Those EDR processes would be reflected in the data for the year they were requested – FY 2021 for the Assisted Resolution, FY 2022 for the Formal Complaint, and FY 2023 for the Review of Decision.

¹⁶ The number of Assisted Resolutions, Formal Complaints, and Reviews of Decision when aggregated exceeds the total number of EDR matters opened during this period because each of the 178 EDR matters may include one or more of these EDR processes.

Most EDR Matters Involve Use of the Assisted Resolution Process. As shown in **Figure 5**, although it is optional in many cases, the Assisted Resolution process is used in the majority of EDR matters. Between FY 2021 and FY 2023, 122 out of 178 EDR matters (69%) involved a Request for Assisted Resolution. In FY 2023, Requests for Assisted Resolution were filed in approximately 60% of the EDR matters opened during that period (35 out of 58 EDR matters opened).

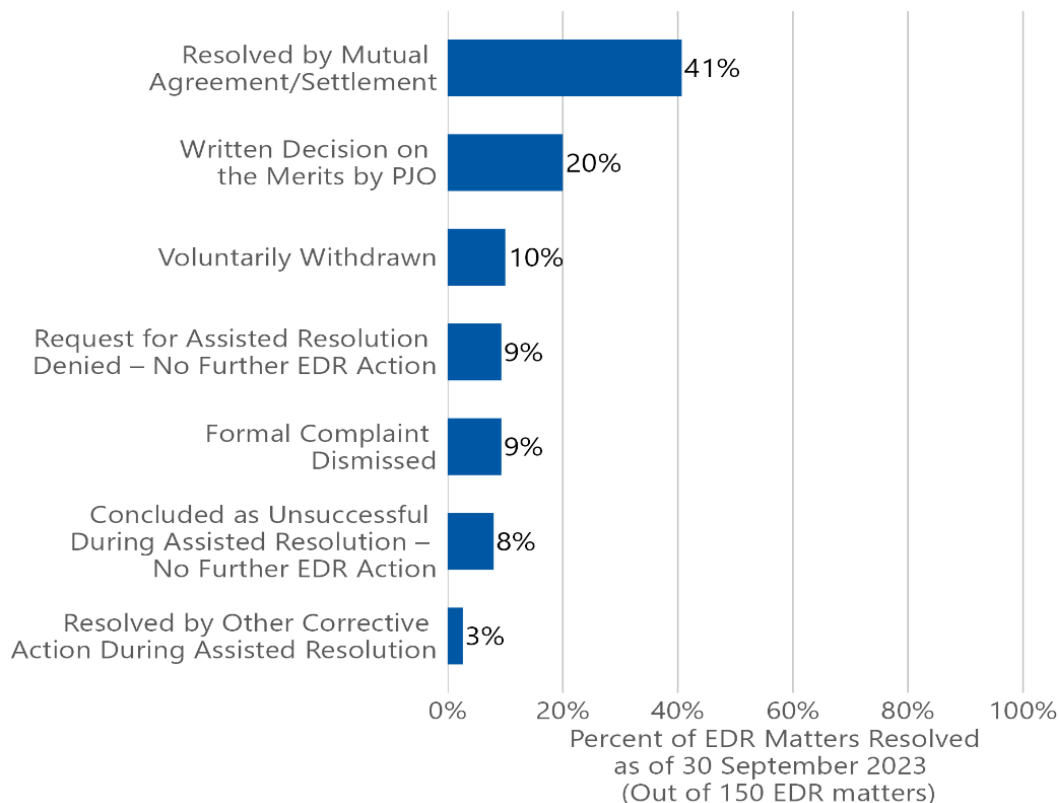
The extensive use of the Assisted Resolution process in EDR matters is an important aspect of the Judiciary’s goal of addressing concerns of wrongful conduct early and at the lowest possible level of formality, while at the same time providing employees with a measure of flexibility and autonomy in choosing the EDR option that is most appropriate for their situation. It is also consistent with feedback received by the Workplace Conduct Working Group that Judiciary employees wanted a flexible and informal option to address workplace conduct concerns.

**Figure 5: Method of Opening EDR Matters
FY 2021 through FY 2023**



Resolution by Mutual Agreement or Settlement Was the Most Common Disposition of EDR Matters Opened and Resolved Between FY 2021 and FY 2023. Between FY 2021 and FY 2023, 150 of the 178 EDR matters opened were resolved. An EDR matter may be resolved in a number of ways. As shown in **Figure 6**, the most common disposition of EDR matters resolved between FY 2021 and FY 2023 was a mutual resolution or settlement to the satisfaction of both parties. This occurred in 41% of the 150 EDR matters opened and concluded between FY 2021 and FY 2023.¹⁷

**Figure 6: Disposition of EDR Matters
FY 2021 through FY 2023**



A mutual resolution or settlement can occur during any EDR process – Assisted Resolution, Formal Complaint, or Review of Decision. A mutual resolution during Assisted Resolution may result from mediation or a facilitated discussion and can take the form of a formal written agreement or some other informal resolution of the concerns, such as the issuance of an apology or an agreement to seek counseling or training to address the problems and ensure they do not recur. This outcome is particularly beneficial to employees to expeditiously address workplace conduct concerns or obtain relief. The parties can also reach a settlement in a Formal Complaint proceeding, which must be reduced to writing and approved by the appropriate Chief Judge and the PJO.

¹⁷ Of the 178 EDR matters opened between FY 2021 and FY 2023, 150 were resolved as of September 30, 2023, and 28 remained pending. The data in Figure 6 represents percentages out of 150 EDR matters.

EDR matters that are not resolved through mutual agreement can be concluded in several other ways. For example, during Assisted Resolution, the employing office may conclude the matter through corrective or other action that was not requested by the complainant or by providing some but not all of the relief requested. Between FY 2021 and FY 2023, 3% of EDR matters were concluded during Assisted Resolution in this manner. An employee may also voluntarily withdraw from any EDR process at any time. As shown in **Figure 6**, of the 150 EDR matters opened and concluded between FY 2021 and FY 2023, 10% were voluntarily withdrawn.

During Assisted Resolution, the EDR matter can also be concluded as unsuccessful if the parties are unable to reach any resolution. The complainant may then proceed to file a Formal Complaint or may choose to take no further action. As shown in **Figure 6**, 8% of the 150 EDR matters opened and concluded between FY 2021 and FY 2023 were concluded as unsuccessful during Assisted Resolution and the complainant chose to take no further EDR action.

An EDR matter can also be concluded during Assisted Resolution or a Formal Complaint proceeding through a denial or dismissal of the request or complaint. A denial of a Request for Assisted Resolution or dismissal of a Formal Complaint can occur on one or more of the grounds set forth in the *Model EDR Plan*.¹⁸ For example, a denial or dismissal is permitted where the complainant does not allege wrongful conduct subject to EDR, or the issue raised in the EDR matter was resolved by a previous process. In Formal Complaint proceedings, the matter may also be dismissed if it is not initiated within the 180-day time limit. If a PJO dismisses a Formal Complaint, the complainant has the right to appeal that decision to the circuit judicial council through a Request for Review of Decision.

As shown in **Figure 6**, in 20% of the 150 EDR matters opened and concluded between FY 2021 and FY 2023, the allegations were decided on the merits at the conclusion of a Formal Complaint proceeding, either based on undisputed facts or after a hearing.

Either party to a Formal Complaint proceeding may appeal the PJO's written decision on the merits to the circuit judicial council through a Request for Review of Decision. A complainant may also Request a Review of Decision if the PJO dismisses the Formal Complaint on one of the grounds set forth in the applicable EDR Plan (based on the *Model EDR Plan* or the *Model FPDO EDR Plan*). As shown previously in **Figure 4**, 29 Requests for Review of Decision were filed between FY 2021 and FY 2023. Of those 29 Reviews of Decision, the circuit judicial council affirmed the PJO's decision in 22 EDR matters, reversed the PJO and remanded the case in 2 EDR matters, and 2 Requests for Review of Decision were voluntarily withdrawn. As of September 30, 2023, 3 Requests for Review of Decision remained pending.

Discrimination is the Most Common Category of Wrongful Conduct Alleged in EDR.

The forms of wrongful conduct¹⁹ subject to EDR fall into five general categories:

- (1) **discrimination** (as defined by Judiciary policy to include conduct that would violate Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and the Rehabilitation Act of 1973)
- (2) **discriminatory harassment** (as defined by Judiciary policy to include conduct that

¹⁸ If a Request for Assisted Resolution is denied, the complainant may proceed to file a Formal Complaint.

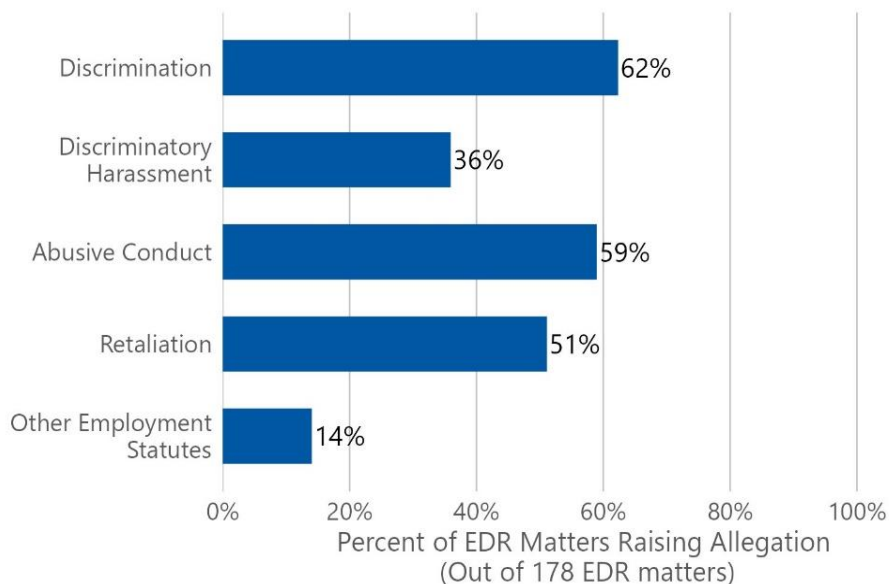
¹⁹ Definitions of these forms of wrongful conduct are provided in [Part II of this Report](#).

would violate Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and the Rehabilitation Act of 1973)

- (3) **abusive conduct** (as defined by Judiciary policy to include “a pattern of demonstrably egregious and hostile conduct . . . that unreasonably interferes with an Employee’s work and creates an abusive working environment.”)
- (4) **retaliation** (as defined by Judiciary policy to include retaliation for reporting or opposing wrongful conduct or violation of the Judiciary’s whistleblower protections)
- (5) **other federal employment statutes** (FMLA, OSHA, WARN Act, USERRA, and EPPA).

As shown in **Figure 7**, allegations of discrimination - when aggregated to include all forms of discrimination - appeared in 62% of the 178 EDR matters opened between FY 2021 and FY 2023. Allegations of discriminatory harassment, when aggregated, appeared in 36% of EDR matters.

**Figure 7: Wrongful Conduct by Category
FY 2021 through FY 2023**



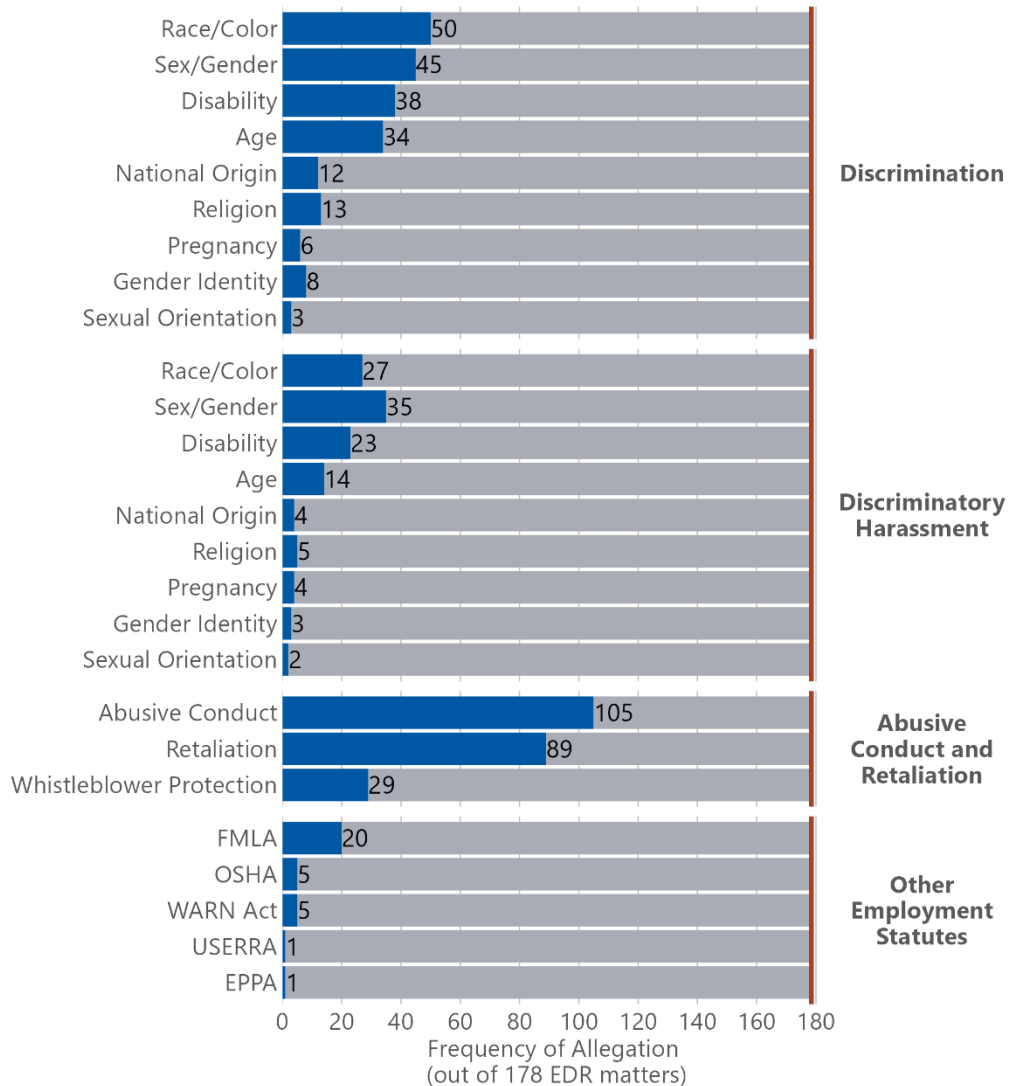
Abusive Conduct Was the Most Frequent Individual Allegation Raised in EDR

Matters. Among the five general categories of wrongful conduct, Judiciary policy recognizes 26 different allegations that can be addressed through EDR. A single EDR matter may include multiple allegations, including allegations of multiple forms of discrimination or discriminatory harassment alongside allegations of abusive conduct and retaliation.

As set forth in **Figure 8**, of the 178 EDR matters opened between FY 2021 and FY 2023, the most common single allegation was abusive conduct – raised in 105 out of 178 EDR matters (59%). The frequent use of EDR to address concerns of abusive conduct – a new workplace protection recognized by the Judiciary in 2019 and not recognized under federal employment discrimination laws – emphasizes the Judiciary’s commitment to promoting civility and respect as necessary to fostering an exemplary workplace.

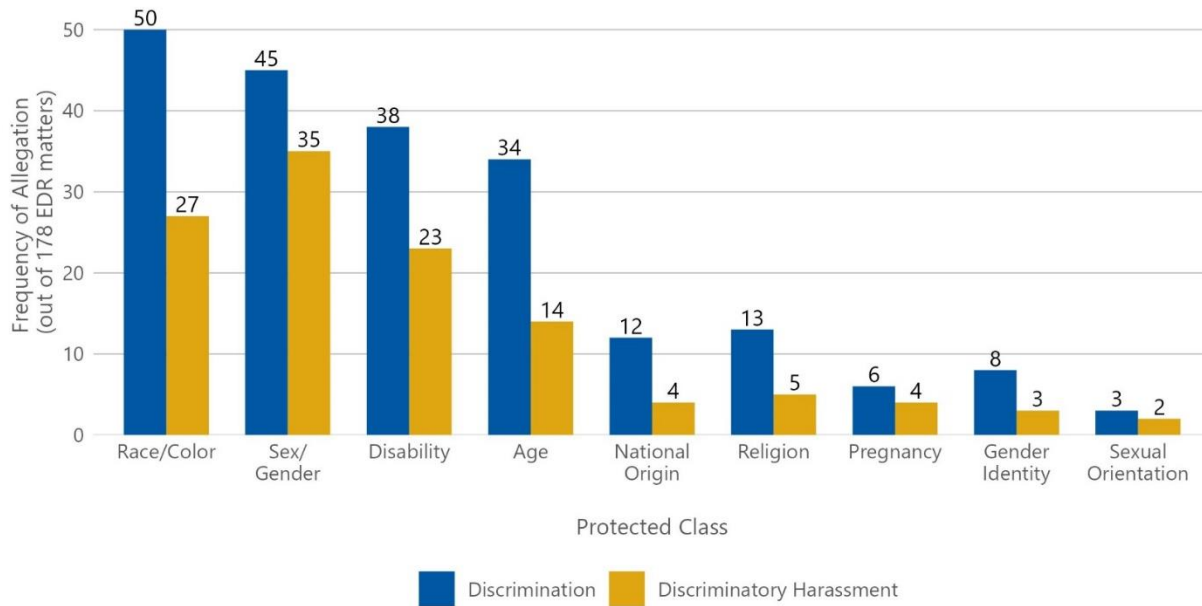
The second most common allegation was retaliation for reporting or opposing wrongful conduct – raised in 89 out of 178 EDR matters (50%). The frequent use of EDR to address concerns of retaliation underscores the Judiciary’s efforts to remove any perceived barriers to reporting workplace conduct concerns. For example, retaliation is not only defined as wrongful conduct that can be addressed through EDR but also can constitute cognizable judicial misconduct under the *JC&D Rules* and a violation of the Judiciary’s codes of conduct.

**Figure 8: Allegations Raised in EDR Matters
FY 2021 through FY 2023**



Overall, as shown in **Figure 9**, allegations of discrimination were more common than allegations of discriminatory harassment. The most frequent discrimination claim was discrimination based on race/color – raised in 50 out of 178 EDR matters (28%). Among discriminatory harassment claims, allegations of harassment based on sex/gender were the most common.

**Figure 9: Allegations of Discrimination v. Discriminatory Harassment
FY 2021 through FY 2023**

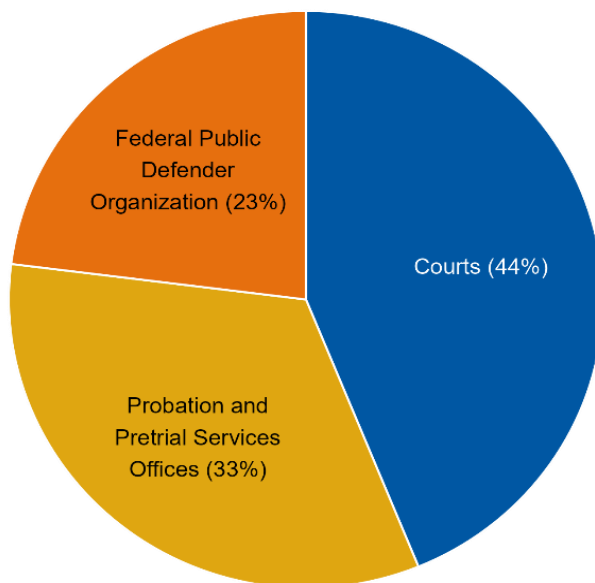


Individuals Using EDR Include Applicants, Current Employees, and Former Employees from Across Employing Offices in the Judiciary. Under Judiciary policy, current and former employees, as well as applicants who have been interviewed for employment within the Judiciary, may use EDR to seek relief from the appropriate employing office to address concerns of wrongful conduct. Between FY 2021 and FY 2023, 64% of the 178 EDR matters were initiated by current Judiciary employees seeking relief from their employing offices. Former Judiciary employees initiated 34% of the EDR matters opened during this period, and applicants initiated the remaining 2% of EDR matters.

For EDR purposes, general categories of employing offices within the Judiciary include courts (as employing offices for both chambers staff and non-chambers staff for EDR purposes),²⁰ probation and/or pretrial services offices, and FPDOS. As shown in **Figure 10**, the 178 EDR matters opened between FY 2021 and FY 2023 involved employing offices from across these categories of employing offices.

Courts, employing the largest proportion of the Judiciary’s total workforce,²¹ were the most common employing office involved in EDR matters. Similarly, probation and pretrial services offices, employing the second largest proportion of the Judiciary’s total workforce, were the second most common employing office identified in EDR matters opened between FY 2021 and FY 2023. Lastly, FPDOS, as the smallest category of employer in the Judiciary’s total workforce, also accounted for the smallest number of employing offices involved in EDR matters during this period.

Figure 10: Employing Offices in EDR Matters FY 2021 to FY 2023

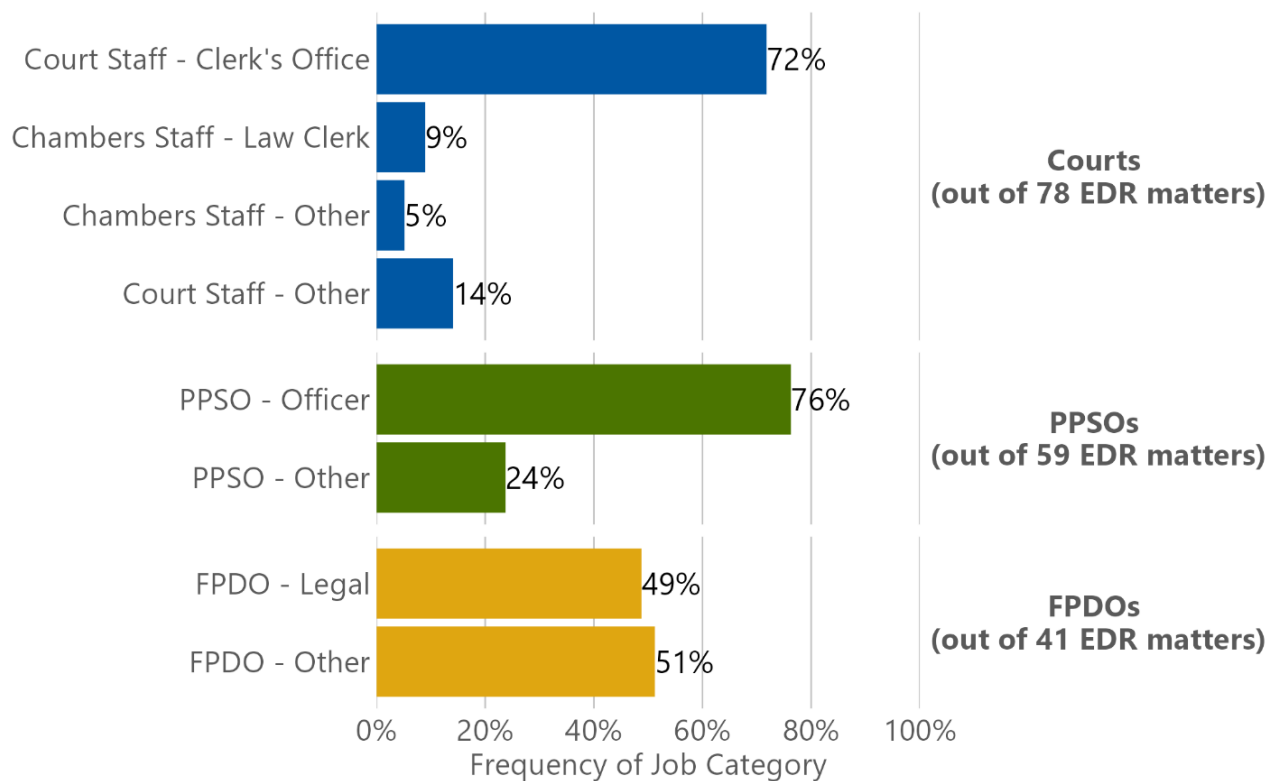


²⁰ Because EDR matters are not initiated against individuals but against employing offices, the *Model EDR Plan* provides that for chambers staff, the employing office is the court and not the individual judge employing the chambers staff.

²¹ As set forth in **Figure 1** of this Report, the Judiciary workforce in FY 2023 consisted of 28,009 employees – approximately 60% in the courts (including chambers staff); 28% in probation and pretrial services offices; and 12% in federal public defender offices.

Figure 11 indicates the job categories of individuals within each type of employing office in the Judiciary who initiated EDR matters between FY 2021 and FY 2023. Among the 78 EDR matters initiated against courts as employing offices, 72% were initiated by employees of clerk’s offices, 14% were initiated by chambers staff (either law clerks or other staff), and 14% were initiated by other employees or appointees of courts. Among the 41 EDR matters initiated against FPDOs, 49% were initiated by legal staff and 51% were initiated by other FPDO employees.²² In EDR matters involving probation and pretrial services offices (PPSOs) as employing offices, 76% were initiated by probation or pretrial services officers. The remaining 24% were initiated by other employees in these offices.

Figure 11: Job Categories of Employees Initiating EDR Matters - FY 2021 to FY 2023



²² The data relating to the job category of “FPDO-Other” includes one FPDO matter in which the job category was not reported.

Individual Accountability: Disciplinary Processes Related to Workplace Conduct

The EDR process is designed to hold employing offices accountable for wrongful conduct in the workplace and provides a means for employees to seek relief and remedies. The *Model EDR Plan* is clear, however, that the PJO “lacks authority to impose disciplinary or similar action against an individual.” The processes for individual accountability – which are separate from EDR - depend on whether the individual accused of misconduct is a judge or a Judiciary employee. Complaints of judicial misconduct must proceed through the JC&D process. Appropriate personnel or disciplinary action against a Judiciary employee is determined by the employee’s supervisory or appointing authority.

2020 STRATEGIC PLAN FOR THE FEDERAL JUDICIARY

Strategy 2.2:

Hold accountable judges and judiciary personnel who engage in misconduct, and be transparent, in furtherance of statutory and other requirements and consistent with confidentiality and privacy requirements, about accountability for misconduct.

Accountability of Judges through the JC&D Process. Unlike the EDR process, which is designed to ameliorate harm to employees caused by violation of the Judiciary’s workplace protections, JC&D proceedings are a statutory mechanism to address judicial conduct that is “prejudicial to the effective and expeditious administration of the business of the courts.” The types of cognizable judicial misconduct subject to the JC&D process, as defined in Rule 4 of the *JC&D Rules*, are therefore much broader than misconduct directed at employees that occurs in the workplace.

The March 2019 amendments to the *JC&D Rules* clarify, among other things, that abusive conduct, harassment, discrimination, and retaliation constitute cognizable judicial misconduct. Consistent with the duty to take appropriate action in the *Code of Conduct for United States Judges*, the amendments to the *JC&D Rules* also provide that cognizable judicial misconduct includes the failure to call to the attention of the relevant chief judge any reliable information likely to constitute judicial misconduct or disability. See [Appendix D](#). A judge’s refusal to cooperate in a JC&D investigation or a decision issued under the *JC&D Rules* is also considered cognizable judicial misconduct.

The procedural rules for EDR and JC&D proceedings are also much different. For example, because the JC&D process is not intended to provide relief to the complainant, *anyone* may file a written JC&D complaint against a federal judge. The complainant does not have to be an individual directly impacted by the alleged judicial misconduct. Once a complaint is filed, it triggers a formal process for determining whether the subject judge committed judicial misconduct as defined by the *JC&D Rules*.

The *JC&D Rules* provide transparency in how judicial complaints are adjudicated. When final action has been taken on a complaint, all orders entered by the chief judge or judicial council must be made public. While the consideration of JC&D complaints are required by statute to be confidential, with limited exceptions for information that can be publicly disclosed as set forth in the *JC&D Act* and *JC&D Rules*, once final action has been taken on a complaint, a public order is issued explaining the disposition of the complaint and the reasons therefore. Links to each

circuit’s public orders and decisions in JC&D matters are available on the uscourts.gov website.

To further promote transparency, the Judiciary also publishes statistical data on JC&D matters, which is also available on uscourts.gov.²³ To foster the Judiciary’s goal of increasing transparency regarding complaints of judicial misconduct in the workplace, the Judiciary in 2020 updated its public statistical reports relating to JC&D matters. These reports now indicate the number of complainants who are current or former Judiciary employees. For FY 2021, 11 of 1,304 complainants were Judiciary employees. For FY 2022, one of the 1,533 complainants in JC&D matters was a Judiciary employee. In FY 2023, three of the 1,391 total complainants in JC&D matters were Judiciary employees. This data reflects the fact that nearly all JC&D complaints are dismissed as not cognizable under the *JC&D Act* because they are filed by individuals who wish to challenge a judge’s decision or ruling in their case.

2020 STRATEGIC PLAN FOR THE FEDERAL JUDICIARY

Goal 4.3c:

... be transparent regarding judicial conduct and disability proceedings and other workplace conduct procedures in furtherance of and consistent with the law, related judiciary policy, and legitimate privacy interests.

The statistical reports have also been updated to include data on allegations relating to discrimination, harassment, and abusive conduct as consistent with the 2019 amendments to the language in the *JC&D Rules* relating to forms of cognizable judicial misconduct. See [Appendix D](#).

Accountability of Individual Employees. Accountability for Judiciary employees who engage in wrongful conduct in the workplace occurs at the local level because each of the over 200 appellate, district, and bankruptcy courts, and each federal public defender, has sole administrative responsibility over its employees. Individual hiring authorities have a range of actions they can take in cases of wrongful conduct by a Judiciary employee, including remedial, disciplinary, or personnel action depending on the nature of the conduct at issue.

The *Model EDR Plan* emphasizes that separate action will occur in cases where there has been a finding of wrongful conduct by a Judiciary employee in an EDR proceeding. In those circumstances, the *Model EDR Plan* provides that an appointing official, or official with delegated authority, should assess whether further action is necessary to correct and prevent wrongful conduct and promote appropriate workplace behavior. Supervisors and hiring authorities have a number of actions they can take depending on the circumstances, such as:

- requiring the employee to engage in counseling or training
- ordering no contact with the complainant
- reassigning or transferring the employee
- reprimanding the employee

²³ The data identifies, among other things, aggregated national and circuit data on the number of complaints filed, the types of complainants, the nature of the allegations raised in the complaints, and action taken on complaints.

- placing the employee on probation
- suspending or demoting the employee
- terminating employment with the Judiciary

PART IV: RESOURCES AND TRAINING FOR JUDICIARY EMPLOYEES, MANAGERS, AND JUDGES

The Judiciary offers employees a broad range of options and methods to report or seek guidance about workplace conduct concerns, with multiple points-of-contact at the national, circuit, and local level. This includes the OJI, the DWRs in each circuit, and EDR Coordinators in local courts and employing offices. Together, this network of over 450 professionals provides confidential advice, guidance, training, and support to employees, managers, and judges regarding workplace conduct issues and the Judiciary’s EDR processes.

National Office of Judicial Integrity

The AO created the OJI in 2019 to serve as a national resource, independent of courts and employing offices, for employees, managers, unit executives, and judges to obtain confidential advice relating to the resolution of workplace conduct issues and concerns. The OJI also supports and participates in Judiciary-wide outreach, training, and education initiatives related to workplace conduct policies and EDR procedures. In 2022, the OJI expanded its staff to include three full-time employees – the Judicial Integrity Officer, the Deputy Judicial Integrity Officer, and an Administrative Analyst.

Confidential Advice and Counseling. The Judicial Integrity Officer and Deputy Judicial Integrity Officer regularly respond to requests for confidential informal advice about EDR matters and provide employees with resources and referrals to the appropriate DWR or EDR Coordinator for further action and guidance.

Anonymous Reporting. To encourage reporting of workplace conduct concerns, the OJI can receive reports or questions about potential wrongful conduct in the Judiciary workplace via email, phone, U.S. mail, referral from other offices, or anonymously through a reporting portal on the Judiciary’s intranet site.

Data and Statistics. The OJI collects anonymized data regarding the use of EDR processes and serves as a national repository for all court and office EDR plans adopted across the Judiciary.

National Policy Support. The OJI supports the Federal Judiciary Workplace Conduct Working Group and the AO’s DWR Advisory Group, and regularly provides information on workplace conduct issues to other relevant Judicial Conference committees and AO advisory groups. In collaboration with DWRs, the OJI also develops and updates internal guides, model forms, and other resources.

Education and Training. As detailed below, the OJI develops and participates in various education and training programs regarding workplace protections and EDR processes, often in coordination with the FJC or DWRs.

Communications and Outreach. The OJI provides support to other offices within the AO, such as the AO’s Office of Public Affairs and Office of Legislative Affairs, to respond to media inquiries and requests from executive branch and legislative branch offices for information relating to the Judiciary’s workplace conduct policies and processes. The OJI also coordinates with DWRs on outreach efforts to future Judiciary employees, providing information and resources to law students and other potential future Judiciary employees.

Circuit Directors of Workplace Relations

Governance of the Judiciary occurs at both the national level through the Judicial Conference with support from the AO and at the regional level through the circuits as independent administrative units. Because of the decentralized nature of federal judicial administration, each of the 13 federal circuits has a DWR to provide numerous essential services related to the Judiciary’s goal of promoting an exemplary workplace. As of 2023, two circuits (the Sixth and Ninth Circuits) have added Deputy DWRs and two circuits (the First and the Ninth) have added workplace relations specialists to support their circuit’s workplace conduct initiatives.

Confidential Advice and

Counseling. DWRs serve as a resource outside an employee’s court or employing office—but within their circuit (a principal administrative governing unit within the Judiciary) to provide confidential informal advice about options to address workplace conduct issues. This can include guidance about applicable EDR processes, local grievance procedures, the JC&D process, or disciplinary processes. DWRs also can provide guidance to judges, court unit executives, managers, and supervisors related to workplace protections and the administration of EDR plans.

2020 STRATEGIC PLAN FOR THE JUDICIARY

Goal 4.3d:

Provide a circuit director of workplace relations in each circuit, to whom employees within the circuit can report wrongful conduct concerns, and who will provide circuit-wide assistance to managers and employees on workplace conduct issues, including training, conflict resolution, and workplace investigations.

Assistance with Implementation of EDR Policies and Initiatives within the Circuit.

DWRs are often asked by judges and unit executives to assist in coordinating the implementation of EDR Plans, fair employment practices, and other employment policies throughout the circuit. They also may serve as experts on EDR and related issues for their circuit judicial council and associated workplace conduct committees. Other services may include collecting and analyzing data or other information and supporting or engaging with specialized workplace subcommittees. DWRs may also assist in developing and making suggestions for best practices in the implementation of circuit-wide workplace policies and EDR processes.

Education and Training. Like the OJI, DWRs frequently provide education and training programs regarding workplace protections and EDR processes, both in their circuits and at national conferences. These programs are aimed at enhancing implementation of policies and procedures and improving the workplace environment.

Communications and Outreach. DWRs engage in a number of different outreach efforts within their circuits to promote connection and collaboration. For example, they may create, develop, and distribute information to employees throughout their circuits, maintain relevant and up-to-date information on internet and intranet sites relating to workplace conduct, and provide information to outside groups.

Assisting EDR Coordinators. DWRs help ensure that EDR Coordinators in the circuit become certified through the EDR Coordinator Certification Course. In addition, DWRs may create

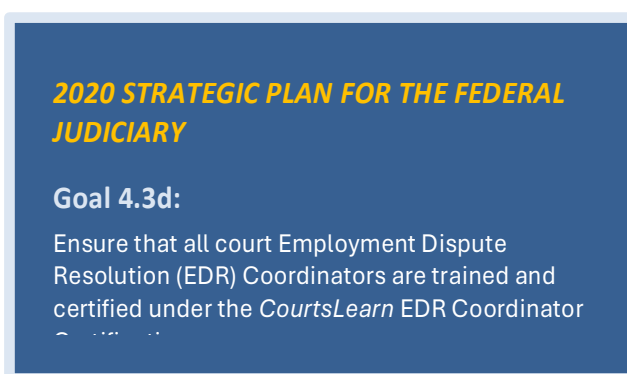
additional training materials and host circuit-wide programs or meetings for EDR Coordinators and human resources staff. In some circuits, DWRs also work with EDR Coordinators to help address or resolve specific workplace conduct matters.

The DWR Advisory Group. DWRs also serve as members of an advisory group established by the AO in 2020. The DWR Advisory Group provides insights into the implementation of EDR plans and processes at the local and circuit levels, suggests best practices, and informs the Judiciary about specific programs and projects occurring in the courts.

Local EDR Coordinators

The new national and circuit-level offices (OJI and DWRs) supplement the longstanding local function of the **EDR Coordinators**, who play a key role in the day-to-day implementation of the Judiciary's EDR Plans. EDR

Coordinators operate at the local level, and each court and employing office in the Judiciary has a designated primary and alternate EDR Coordinator to serve employees in those locations. EDR Coordinators are Judiciary employees who have volunteered to serve in this important capacity in addition to their other job duties, in most cases unrelated to human resources management.



As a parallel resource to the national and regional offices, EDR Coordinators are a resource for confidential advice at the local level regarding the resolution of workplace conduct concerns. In addition, an EDR Coordinator serves as a neutral, independent facilitator who helps administer the EDR process at their local court or employing office. The EDR Coordinator acts as a guide to both the employee and employing office about the EDR Plan and has specific responsibilities to help administer EDR processes.

All EDR Coordinators must be trained and certified through the Judiciary's EDR Coordinator Certification Course. The comprehensive training program covers EDR processes and procedures, forms of wrongful conduct under the EDR Plan, responsibilities of the EDR Coordinator, as well as other skills.

Training Programs and Online Resources

Education and training are essential to promoting and maintaining an exemplary workplace. For this reason, the *Model EDR Plan* requires all courts and employing offices to conduct annual training on workplace protections and EDR rights and processes. This training is offered in each circuit, often led by DWRs, with supplemental national training opportunities for employees and managers offered through the OJI.

The [FJC](#), the OJI, DWRs, and local courts and employing offices have also developed a wide range of other training programs and resources related to the Judiciary workplace.

For example, the [FJC](#) offers numerous in-person programs, virtual programs (web-based programs and e-learning), videos, podcasts, and webpages for judges and Judiciary employees. Programs that promote an exemplary workplace include management and professional development programs—available to all judiciary employees and supervisors—on topics such as ethics, leadership, management skills, understanding cognitive biases, and inclusion in the workplace. Other programming is offered through the FJC’s CourtWeb series and its podcast series, *In Session: Leading the Judiciary*. Recently, the FJC also launched a webinar series for managers, supervisors, and Judiciary employees on topics such as building an inclusive workplace, holding challenging conversations, and fostering respect in the workplace.

At the AO, the OJI develops and leads training programs related to workplace issues, often collaborating with the FJC or DWRs. Employees, managers, and judges also have access to the AO’s online training programs through the Judiciary Online University (JOU) and other platforms. Many districts and circuits provide such training as part of the programming at periodic mandatory meetings of judges.

At the circuit and local level, DWRs conduct numerous workplace-related training programs for employees, managers, and judges within their circuits. These training programs include in-person events, virtual platforms, interactive virtual sessions, and on-demand training videos. DWRs have also developed a wide range of direct outreach and engagement opportunities for employees, including roundtables and brown bag lunch series, “coffee & conversation” events, listening sessions and town halls, speaker series events, and meet and greets. Other programs at the circuit level also include those specifically tailored for law clerks, probation and pretrial services officers, staff attorneys, judges, and other groups. Beyond these events, local court units sponsor their own training programs.

2020 STRATEGIC PLAN FOR THE FEDERAL JUDICIARY

Goal 2.1a:

Enhance education and training for judges and judiciary employees on ethical conduct, integrity, accountability, and workplace conduct.

Goal 4.3a:

Educate all judges and employees on standards of appropriate and inappropriate conduct, with continuing education on a regular basis, including as related to the codes of conduct and judicial conduct and disability procedures.

Goal 4.3b:

Educate all judges and employees about the obligation to take appropriate action when they have reliable information about misconduct by a judge or other person, and about the available options for guidance regarding reporting misconduct, as well as mechanisms to report misconduct.

Outreach to Future Judiciary Employees

The Judiciary's education and outreach efforts also extend to future employees and applicants, with a focus in 2022 and 2023 on law schools and law students. Because many law students interact with the Judiciary through internships and externships, and later through employment as law clerks and other legal professionals, the Judiciary's outreach programs to future employees began with law schools. This outreach raises awareness of standards of conduct, workplace protections, and avenues to address any concerns that might arise during their employment in the Federal Judiciary.

In August 2021, the AO Director sent letters to approximately 200 law schools across the country highlighting the Judiciary's commitment to ensuring a safe and respectful workplace and emphasizing the role of the OJI and DWRs as confidential resources for seeking guidance or to report concerns. Since then, DWRs and the OJI have offered ongoing training programs to individual law schools, for both law school administrators and law students. This outreach has opened lines of communication between the OJI and DWRs with law school administrators about any workplace concerns experienced by current or former law students.

The Judiciary has also developed a relationship with the National Association for Law Placement (NALP). In 2021, 2022, and 2023, OJI and DWRs provided information sessions for members of NALP about the Judiciary's workplace conduct policies, protections, and processes.

In 2022, the AO also updated information on the Judiciary's clerkship and staff attorney online application portal, the Online System for Clerkship Application and Review (OSCAR). Because OSCAR provides information for applicants and law schools about the hiring practices of judges and staff attorney offices, OSCAR was updated to include resources specifically related to the Judiciary's workplace protections, policies, processes, and contact information for the OJI and the DWRs.

To reach other interested applicants, the OJI updates and maintains information on the Judiciary's public facing website, uscourts.gov, relating to workplace protections and processes. Websites hosted by individual courts and FPDOs also provide this information.

APPENDIX A: JUDICIAL CONFERENCE ACTIONS RELATING TO WORKPLACE CONDUCT

FEBRUARY 2018: As part of its biennial review of the *Strategic Plan for the Federal Judiciary* to identify strategies and goals to receive priority attention, the Executive Committee prioritized the core value of accountability to ensure the sufficiency and effectiveness of existing safeguards to protect Judiciary employees from wrongful conduct in the workplace. See [JCUS-MAR 2018, pp. 4-5](#). See also [Appendix B](#).

FEBRUARY 2018: Acting on an expedited basis on behalf of the Judicial Conference, the Executive Committee rescinded the Judiciary's Model Confidentiality Statement for review and revision to clarify that it does not prevent any Judiciary employee from revealing or reporting workplace conduct concerns, including sexual or other forms of harassment, by a judge or any other person. See [JCUS-MAR 2018, p. 5](#).

SEPTEMBER 2018: The Judicial Conference approved revisions to the existing *Model EDR Plan* to: (1) include protections for paid or unpaid interns and externs; and (2) extend the time for initiating an EDR matter from 30 days to 180 days of the alleged violation or the time the employee becomes aware of the alleged violation. See [JCUS-SEPT 2018, pp. 29-30](#).

MARCH 2019: The Judicial Conference approved amendments to the *Code of Conduct for United States Judges* to clarify, among other things, that judges should neither engage in, nor tolerate, workplace conduct that is reasonably interpreted as harassment (including unlawful discrimination), abusive behavior, or retaliation for reporting such conduct. Amendments were also approved providing that a judge should take appropriate action upon receipt of reliable information indicating the likelihood that a judge's or judicial employee's conduct contravenes the applicable Code. See [JCUS-MAR 2019, pp. 12-13](#). See also [Appendix C](#).

MARCH 2019: The Judicial Conference approved amendments to the *Code of Conduct for Judicial Employees* consistent with amendments to the *Code of Conduct for United States Judges* with respect to workplace conduct and taking appropriate action upon receipt of reliable information indicating a likelihood of conduct contravening the code. The amendments also clarified that the duty of confidentiality does not prevent a judicial employee from reporting or disclosing concerns of wrongful workplace conduct by a judge, supervisor, or other person. See [JCUS-MAR 2019, pp. 12-13](#). See also [Appendix C](#).

- MARCH 2019:** The Judicial Conference approved revisions to the *JC&D Rules* to clarify, among other things, that: (1) abusive conduct, harassment, discrimination, and retaliation constitute cognizable judicial misconduct; (2) failing to call to the attention of the relevant chief district judge or chief circuit judge any reliable information reasonably likely to constitute judicial misconduct or disability is also cognizable judicial misconduct; and (3) traditional judicial “standing” rules do not apply to the JC&D complaint process. See [JCUS-MAR 2019, pp. 25-26](#). See also [Appendix D](#).
- SEPTEMBER 2019:** The Judicial Conference approved a new *Model EDR Plan* that recognized abusive conduct as form of wrongful conduct in the workplace, included more flexible dispute resolution processes, and provided clearer language. See [JCUS-SEPT 2021, pp. 21-22](#).
- MARCH 2020:** The Judicial Conference approved amendments to the *Code of Conduct for Federal Public Defender Employees* consistent with the amendments approved for the *Code of Conduct for Judicial Employees*. See [JCUS-MAR 2020, p. 8](#). See also [Appendix C](#).
- MARCH 2020:** Acting on an expedited basis on behalf of the Judicial Conference, the Executive Committee approved exceptions to the Judiciary’s human resources policies to facilitate local efforts to resolve specific workplace conduct matters. See [JCUS-MAR 2020, p. 5](#).
- SEPTEMBER 2020:** The Judicial Conference approved updates to the core values, strategies, and supporting goals in the Strategic Plan for the Federal Judiciary, which included updates related to workplace conduct. See [JCUS-SEPT 2020, pp. 13-24](#). See also [Appendix B](#).
- SEPTEMBER 2020:** Acting on an expedited basis on behalf of the Judicial Conference, the Executive Committee approved exceptions to the Judiciary’s human resources policies to facilitate local efforts to resolve specific workplace conduct matters. See [JCUS-SEPT 2020, p. 15](#).
- FEBRUARY 2021:** As part of its biennial review of the *Strategic Plan for the Federal Judiciary* to identify strategies and goals to receive priority attention, the Executive Committee prioritized Strategy 2.1 (“Assure high standards of conduct and integrity for judges and employees”) and Strategy 4.3 (“Ensure an exemplary workplace free from discrimination, harassment, retaliation, and abusive conduct”). See [JCUS-MAR 2021, pp. 6-7](#). See also [Appendix B](#).

- SEPTEMBER 2021:** To improve the Judiciary’s efficiency in resolving workplace conduct concerns, the Judicial Conference authorized the Committee on Judicial Resources to grant exceptions to Judicial Conference human resources policy as needed to resolve workplace conduct matters. See [JCUS-SEPT 2021, p. 23](#).
- SEPTEMBER 2021:** The Judicial Conference approved a *Model FPDO EDR Plan* to tailor the 2019 *Model EDR Plan* to FPDOs by clarifying language and adding provisions to address issues specific to the legal services FPDOs provide. See [JCUS-SEPT 2021, pp. 23-24](#).
- SEPTEMBER 2022:** The Judicial Conference approved the use of periodic national workplace surveys to be administered by the FJC and designed to protect the anonymity and confidentiality of data collected. See [JCUS-SEPT 2022, p. 19](#).
- FEBRUARY 2023:** As part of its biennial review of the *Strategic Plan for the Federal Judiciary* to identify strategies and goals to receive priority attention, the Executive Committee renewed its priority of Strategy 2.1 (“Assure high standards of conduct and integrity for judges and employees”) and Strategy 4.3 (“Ensure an exemplary workplace free from discrimination, harassment, retaliation, and abusive conduct”). See [JCUS-MAR 2023, pp. 5-6](#). See also [Appendix B](#).

APPENDIX B: WORKPLACE CONDUCT AND THE STRATEGIC PLAN FOR THE FEDERAL JUDICIARY

The *Strategic Plan for the Federal Judiciary* serves as an agenda outlining fundamental issues facing the Judiciary and setting forth correlating strategies and goals in keeping with the Judiciary’s core values.

At its [September 2020 meeting](#), the Judicial Conference approved the [Strategic Plan for the Federal Judiciary](#) as part of its regular review process. The Strategic Plan as updated in 2020 incorporates specific values, issues, strategies, and goals relating to the Judiciary workplace intended to preserve public trust and confidence in the Judiciary and promote an exemplary workplace.

As updated in 2020, the Strategic Plan contains the following provisions relevant to workplace conduct:

Relevant Core Values

Equal Justice: . . . treatment of all with dignity and respect.

Diversity and Respect: . . . an exemplary workplace in which everyone is treated with dignity and respect.

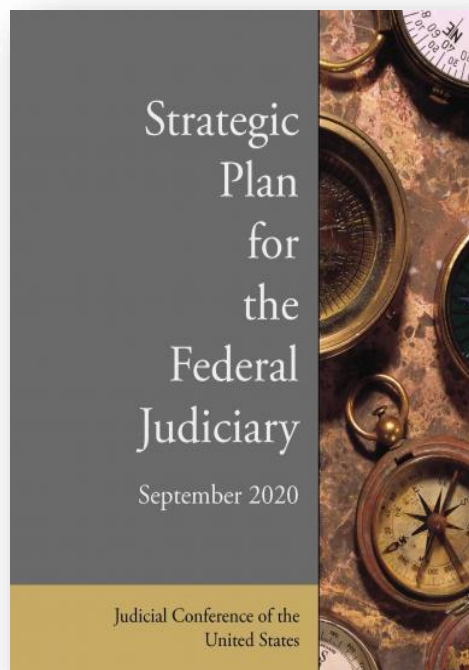
Accountability: stringent standards of conduct; self-enforcement of legal and ethical rules . . .

Excellence: adherence to the highest jurisprudential and administrative standards; effective recruitment, development and retention of highly competent and diverse judges and employees; commitment to innovative management and administration . . .

Relevant Issues, Strategies, and Goals

Issue 2: [Preserving Public Trust, Confidence, and Understanding](#)

- **Strategy 2.1:** Assure high standards of conduct and integrity for judges and employees.
 - **Goal 2.1a:** Enhance education and training for judges and judiciary employees on ethical conduct, integrity, accountability, and workplace conduct.
- **Strategy 2.2:** Hold accountable judges and judiciary personnel who engage in misconduct, and be transparent, in furtherance of statutory and other requirements and consistent with confidentiality and privacy requirements, about accountability for misconduct.



- **Goal 2.2a:** Ensure avenues for seeking advice, obtaining assistance as to potential misconduct, obtaining redress, where appropriate, and filing a complaint are easily accessible.
- **Goal 2.2b:** Ensure timely action is taken on credible allegations of misconduct according to established procedures, and when the evidence supports it, ensure action is taken with regard to misconduct.
- **Goal 2.2c:** Ensure each circuit’s website prominently displays actions taken under the Judicial Conduct and Disability Act and Rules for Judicial Conduct and Judicial Disability Procedures, in accordance with the requirements of the Act and the Rules, and summaries of other records or reports of workplace conduct issues, where permissible and appropriate.
- **Goal 2.2d:** Consider conducting reviews of systemic issues, when appropriate.

Issue 4: [The Judiciary Workforce and Workplace](#)

- **Strategy 4.3:** Ensure an exemplary workplace free from discrimination, harassment, retaliation, and abusive conduct.
 - **Background and Commentary to Strategy 4.3:** Public trust and confidence and workforce morale and productivity are enhanced when the judiciary provides an exemplary workplace for everyone. As a result of efforts by the judiciary’s Workplace Conduct Working Group – which recommended more than thirty measures to enhance the judiciary’s workplace policies and procedures – the judiciary has adopted amendments to the applicable codes of conduct and the *Rules for Judicial Conduct and Judicial Disability Proceedings* to expressly state that sexual and other harassment, discrimination, abusive conduct, and retaliation are misconduct. In addition, the judiciary has adopted an improved Model Employment Dispute Resolution Plan to clearly describe prohibited conduct and provide simplified and effective redress, has established a Judicial Integrity Office and regional workplace conduct committees and workplace relations directors, and has undertaken extensive training on workplace civility and preventing harassment and other forms of discrimination. Beyond these and other measures already taken, the judiciary can continuously improve. The judiciary must diligently continue to work to ensure that it provides an exemplary workplace for all of its employees.
 - **Goal 4.3a:** Educate all judges and employees on standards of appropriate and inappropriate conduct, with continuing education on a regular basis, including as related to the codes of conduct and judicial conduct and disability procedures.
 - **Goal 4.3b:** Educate all judges and employees about the obligation to take appropriate action when they have reliable information about misconduct by a judge or other person, and about the available options for guidance regarding reporting misconduct, as well as mechanisms to report misconduct.
 - **Goal 4.3c:** Enhance accountability and effective redress, where appropriate, through universal adoption and conscientious application of the Model

Employment Dispute Resolution Plan, and be transparent regarding judicial conduct and disability proceedings and other workplace conduct procedures in furtherance of and consistent with the law, related judiciary policy, and legitimate privacy interests.

- **Goal 4.3d:** Provide a circuit director of workplace relations in each circuit, to whom employees within the circuit can report wrongful conduct concerns, and who will provide circuit-wide assistance to managers and employees on workplace conduct issues, including training, conflict resolution, and workplace investigations. Ensure that all court Employment Dispute Resolution (EDR) Coordinators are trained and certified under the *CourtsLearn* EDR Coordinator Certification course.
- **Goal 4.3e:** Consider conducting reviews of systemic issues related to workplace conduct at the circuit and district level, when appropriate, and systematically evaluate whether guidance and procedures designed to foster an exemplary workplace are effective and whether additional action may be needed.

APPENDIX C: AMENDMENTS TO THE JUDICIARY’S CODES OF CONDUCT

In 2019 and 2020, the Judicial Conference approved numerous amendments clarifying ethical duties relating to workplace conduct in the Judiciary’s codes of conduct, which include [the Code of Conduct for United States Judges](#), [Code of Conduct for Judicial Branch Employees](#), and [Code of Conduct for Federal Public Defender Employees](#).

Code of Conduct for United States Judges

Updates to the [Code of Conduct for United States Judges](#) in March 2019 included the following:

- Amendments to the Commentary to Canon 2A to make clear that “[p]ublic confidence in the judiciary is eroded by irresponsible or improper conduct by judges, including harassment and other inappropriate workplace behavior.”
- Amendments to Canon 3 and Canon 3B(4) to clarify and emphasize that a judge must perform the duties of the office respectfully, practice civility, and should not engage in any behavior that is harassing, abusive, prejudiced or biased.
- Updated Commentary to Canon 3B(4), to provide that “[a] judge should neither engage in, nor tolerate, workplace conduct that is reasonably interpreted as harassment, abusive behavior, or retaliation for reporting such conduct. The duty to refrain from retaliation includes retaliation against former as well as current judiciary personnel.” Further updates to this Commentary provides that “harassment encompasses a range of conduct having no legitimate role in the workplace, including harassment that constitutes discrimination on impermissible grounds and other abusive, oppressive, or inappropriate conduct directed at judicial employees or others.”
- Amendments to Canon 3B(6) to clarify that a judge who receives reliable information that another judge or a Judiciary employee engaged in improper conduct, to include workplace misconduct, should take appropriate action to address the matter.
- Amendments to the Commentary to Canon 3B(6) to explain that taking appropriate action to address likely misconduct is necessary to promote public confidence in the integrity and impartiality of the Judiciary. To ensure that a response to a report of wrongful conduct in the workplace can be tailored to the situation, the Commentary further provides that appropriate action depends on the circumstances but should be calculated to prevent harm to those affected by the conduct and to prevent its recurrence. For example, appropriate action may include direct communication with the person who engaged in the inappropriate behavior, reporting the conduct to the chief judge or other appropriate authorities or persons, or cooperating with or participating in judicial disciplinary proceedings.

Codes of Conduct for Judicial and FPDO Employees

Updates to the [Code of Conduct for Judicial Employees](#) in March 2019 and the [Code of Conduct for Federal Public Defender Employees](#) in March 2020 included the following:

- Amendment to Canon 3D of the [Code of Conduct for Judicial Employees](#) to clarify that the “general restriction on use or disclosure of confidential information does not

prevent, nor should it discourage, an employee or former employee from reporting or disclosing misconduct, including sexual or other forms of harassment, by a judge, supervisor, or other person.” In March 2020, the Judicial Conference approved a similar amendment to Canon 3D of [*the Code of Conduct for Federal Public Defender Employees*](#).

- Amendments to Canon 3C(1) of the [*Code of Conduct for Judicial Employees*](#) to make a similar clarification that, like a judge, a Judiciary employee’s duty to be patient, dignified, respectful, and courteous extends to other employees. The amendments further included language to expressly proscribe sexual or other forms of harassment of other employees, and to further proscribe retaliation against those who report misconduct. In March 2020, the Judicial Conference approved identical amendments to the [*Code of Conduct for Federal Public Defender Employees*](#).
- Amendments to Canon 3C(1) of the [*Code of Conduct for Judicial Employees*](#) to clarify that Judiciary employees should also take appropriate action upon receipt of reliable information indicating the likelihood that a judge’s or judicial employee’s conduct contravened the applicable Code. In March 2020, similar amendments were also approved for Canon 3C(1) of the Code of Conduct for Federal Public Defender Employees.

APPENDIX D: UPDATES TO THE *RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS*

Consistent with the Judiciary’s other actions to promote an exemplary workplace, the Judiciary amended the [JC&D Rules](#) in March 2019 as follows:

JUDICIAL MISCONDUCT DIRECTED AT JUDICIARY EMPLOYEES

The amendments clarified the existing practice and understanding that misconduct directed at Judiciary employees, including interns, externs, and volunteers, is considered cognizable judicial misconduct:

- New language was added to Rule 3’s general definitions to include the term “Judicial Employee,” and also make clear that the term includes interns, externs, and volunteers.
- New language was added to the Commentary to Rule 4, which defines the forms of cognizable judicial misconduct, to emphasize the Judiciary’s commitment to maintaining a work environment in which all judicial employees are treated with dignity, fairness, and respect, and are free from harassment, discrimination, and retaliation.
- Existing language in Rule 4 defining cognizable judicial misconduct to include treating others in a “demonstrably egregious and hostile manner” was clarified to include such behavior directed at Judiciary employees.
- New language was added to Rule 4 providing that “abusive and harassing behavior” is cognizable misconduct and includes sexual harassment or other sexual misconduct directed at any person, or creating a hostile work environment for Judiciary employees.
- New language was added to the Commentary to Rule 4’s definition of abusive and harassing behavior to emphasize that “anyone can be a victim of unwanted, offensive, or abusive sexual conduct, regardless of their sex and of the sex of the judge engaging in the misconduct.”
- New language was added to Rule 4 to expressly provide that cognizable misconduct includes intentional discrimination on the basis of race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age, or disability.
- Existing language in Rule 4 defining cognizable misconduct to include retaliation for participating in the JC&D process was clarified to expressly include retaliation against Judiciary employees, and retaliation for reporting or disclosing judicial misconduct or disability.

FAILURE OF A JUDGE TO REPORT JUDICIAL MISCONDUCT TO THE CHIEF JUDGE

In keeping with changes to the *Code of Conduct for United States Judges*, the amendments added language to Rule 4 and the related Commentary to make clear that a judge’s failure to

report reliable information reasonably likely to constitute judicial misconduct or disability to the relevant chief district court or chief circuit court judge is also a form cognizable judicial misconduct.

CLARIFICATIONS IN RULES RELATING TO CONFIDENTIALITY

By statute, the JC&D complaint process is confidential and orders regarding a complaint become public only after final action has been taken. *JC&D Rules* 4, 6, 16, 23 and the related Commentary were amended to clarify that the confidentiality provisions in the *JC&D Rules* do not preclude reporting or disclosing concerns of wrongful workplace conduct. When a person confidentially reports potential judicial misconduct to a judge, the amendments also require the judge to inform the person of the judge's responsibility to disclose such information to the relevant chief district court judge or chief circuit judge. The judge receiving the report must also inform the person that confidentiality does not prevent disclosing the information as needed in circumstances involving a threat to the safety or security of any person or conduct that is so serious and egregious that it threatens the integrity and proper functioning of the Judiciary.

INSTITUTIONAL REVIEW AND OTHER ACTION NECESSARY TO ENSURE ACCOUNTABILITY

Amendments were also made to the *JC&D Rules* to prevent the recurrence of judicial misconduct in the workplace.

- The Commentary to Rule 11 and Rule 20 was amended to emphasize that, even in circumstances in which a JC&D proceeding has concluded (such as because of the death, resignation, retirement or impeachment of the subject judge), judicial councils, and the Judicial Conference have the authority to engage in institutional reviews to evaluate the circumstances that may have enabled misconduct or prevented its discovery, and what precautionary or curative steps can be taken to prevent its recurrence.
- Language was added to the Commentary to Rule 4 to clarify that a chief district judge or chief circuit judge may address the allegations of misconduct or disability reported outside of the formal JC&D complaint process through informal corrective action to bring about an effective and prompt resolution if appropriate under the circumstances.
- Language was added to the Commentary to Rule 1 and Rule 11 clarifying that a JC&D complaint must be addressed so long as the subject judge retains the judicial office.
- Language was added to Rule 13 authorizing special committees investigating judicial misconduct complaints to determine the full scope of the potential misconduct or disability, including whether there is a broader pattern of misconduct at issue in the matter.

PROCEDURAL CLARIFICATIONS TO DISTINGUISH JC&D AND EDR PROCEEDINGS

The amendments to the *JC&D Rules* also made important clarifications in the Commentary to Rule 1 and Rule 4 to ensure that Judiciary employees understand that the JC&D process is a distinct process from the employee's right to pursue remedies under the Judiciary's *Model*

EDR Plan and that anonymous reporting can occur outside of JC&D.

- As set forth in the revised Commentary to Rule 4, “[a] person who seeks to report information of misconduct or disability on a confidential or anonymous basis may proceed through various alternative avenues within the judiciary, including the OJI and/or comparable offices within the circuits.”
- The amendments further clarified in the Commentary to Rule 3 that unlike EDR processes, anyone can file a complaint of judicial misconduct under the *JC&D Rules*, and that because traditional standing requirements do not apply, a person can file a judicial misconduct complaint even if they have not been directly injured or aggrieved.

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