

**From:** [claudiaabarber](#)  
**To:** [AO Code and Conduct Rules](#)  
**Subject:** Public comment ending November 13 on Code of Judicial Conduct and Rules  
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The Working Group highlighted many improvements in the area of workplace misconduct. However, individuals applying for jobs, especially federal magistrate judge jobs should be afforded the same equal justice under the law protections against retaliation and workplace misconduct.

1. There is no established protocol in the federal district court in Maryland for filing grievances when a complainant alleges racial discrimination in employment in the hiring practices of magistrate judges.

For more than a century since this federal court's existence, there was never a woman of color appointed as a federal magistrate judge in Maryland. Not until I filed a complaint with the Fourth Circuit did the district court judges decide to hire their first African American female magistrate judge in 2017 or 2018. Imagine that. More than a century.

When I made a formal inquiry with the chief judge of the Fourth Circuit, it was met with immediate resistance by the former chief judge of the district court, who subsequently blackballed me for asking why. After I made a prima facie case of disparate impact, the former district court chief judge retaliated by engaging in a conspiracy with the merit selection panel chief to discredit my application and not advance my application ever again. She also specially assigned a case to a West Virginia judge when she learned a case involving me as a party was removed from state court to federal court. She conspired with the specially assigned judge to rule against me in every single matter and dismiss the case.

All of these retaliatory matters should be addressed in the Code of Conduct and Rules. They are not because misconduct should include discrimination and retaliation against applicants for federal magistrate judge vacancies under Article I. 4(a)(1)(4). Section 4(b) also does not afford protection to applicants challenging discriminatory hiring practices in the federal magistrate judge field. There is no hearing afforded the complainant. When the chief judge gets the complaint, that chief judge does not provide a fair hearing to the complainant under Article IV. Rule 11 (b) and (f). When I filed my complaint, the chief judge in the Fourth Circuit chose a researcher at random who was never vetted or cross examined by the complainant. There was no voir dire nor attempt to ask if the randomly chosen researcher had adequate skills to conduct an EEO investigation and if he had a conflict of any type. I was never given an opportunity to rebut the case with additional evidence because the researcher would not reveal to me the opposing side's explanation. This was completely lacking in due process. This is why the Rules of Conduct should include a hearing when a case is forwarded to a special committee you the chief judge. The complainant must be given an opportunity to cross examine witnesses in a formal hearing and not remain bound by unsubstantiated statements made in a vacuum under the current rules.

Thought should be given to include applicants for federal magistrate judge positions under an EDR plan to have matters mediated or otherwise resolved by means of a formal hearing.

2. Add a paragraph that an allegation that a judge conspired with a merit selection panel to short list only certain candidates of a specific race, creed or color is defined misconduct of a covered judge.

3. A provision should also be added to include that a presumption of retaliation exists when an applicant engages in protected activity and is subsequently harmed by an act of a judge involved in a judicial complaint previously filed with the Fourth Circuit or if the complainant engaged in other protected activity. That judge should not oversee or make decisions pertaining to the complainant. This provision protects individuals harmed by a sexual harasser.

All of the above protects employees and job applicants from inappropriate workplace conduct. Such added provisions will enhance existing protections.

I can be reached at [240-593-1181](tel:240-593-1181). Thank you for your time.

Sent from my T-Mobile 4G LTE Device