

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

EMPLOYMENT DISPUTE RESOLUTION PLAN COMPLAINT PROCEDURES

PROCEDURES FOR FILING A COMPLAINT

An employee who believes that his or her rights under Chapters II through VIII of the 2018 Model Employment Dispute Resolution Plan (the “Model EDR Plan”) have been violated may seek resolution of such claims through the procedures as set forth in Chapter X of the Model EDR Plan. The dispute resolution process begins with a request of counseling, followed by a period of mediation. If the matter is not resolved through either counseling or mediation, then said employee may file a written complaint for consideration by the chief judge or designated presiding judicial officer.

1. Request for Counseling

An employee who believes that his or her rights under Chapter II through VIII of the Model EDR Plan have been violated must first request counseling. The request for counseling shall be submitted to the EDR Coordinator, must be in writing and contain all the violations asserted by the claimant, and must be made within 180 days of the alleged violation or within 180 days of the time the employee becomes aware of the alleged violation. The period for counseling shall be 30 days (or a shorter period if counseling is concluded at an earlier date), beginning on the date that the request is received by the EDR Coordinator. The counseling shall be conducted in accordance with Chapter X, Section 8 of the Model EDR Plan. The EDR Coordinator will notify the employee in writing of the end of the counseling period. The notice shall inform the employee of the right and obligation to file a written request for mediation should the employee choose to pursue the claim.

2. Request for Mediation

Should the employee choose to pursue the claim following counseling, the employee must file, within 15 days after receipt of the notice of the conclusion of the counseling period, a written request for mediation. After a written request for mediation is received, a mediator shall be designated. The period for mediation shall be 30 days (or a shorter period if mediation is concluded at an earlier date) from the date that the request is received. The employee must attend at least one mediation session in order to proceed to file a request for hearing. If the matter has not been resolved at the end of the 30-day mediation period, the EDR Coordinator shall notify the employee and other related parties of the end of the mediation period. The notice shall also inform the employee of his or her right to file a complaint.

3. Complaint and Hearing

Should the employee choose pursue the claim following mediation, no later than 15 days after receiving notice of the end of the mediation period, the employee must file a complaint with the EDR Coordinator. The complaint must be in writing, identify the complainant and all involved parties and individuals, and shall set forth a short and plain statement of the complainant's claim and the relief or remedy being sought. Claims not presented during counseling or mediation may not be pursued. The respondent shall be the employing office which would be responsible for redressing, correcting or abating the violation(s) alleged in the complaint. No individual shall be named as a respondent in the complaint.

If the chief judge or presiding judicial officer does not dismiss the complaint or make a determination that no material factual dispute exists, a hearing shall commence on the merits of the complaint no later than 60 days after the complaint is filed. The specific hearing provisions under Chapter X, Section 10(B)(2) shall be applicable. The final decision of the chief judge or presiding judicial officer must be issued in writing no later than 30 days after conclusion of the hearing.

A party or individual aggrieved by the final decision of the chief judge or presiding judicial officer's final decision or a summary of dismissal of the complaint may petition for review of that decision under procedures established by the judicial council of the circuit. Any review will be based on the record and shall be affirmed if supported by substantial evidence.

DISQUALIFICATION PROCEDURES

If an employee believes a proposed counselor, mediator or hearing officer is disqualified, the employee must notify the EDR Coordinator in writing within five days of learning of the appointment; the notice must include enough facts to allow a decision to be made.

1. If the disqualification applies to the EDR Coordinator, the chief judge will decide the issue of qualification.
2. If the disqualification applies to the chief judge, the circuit judicial council or its designee will decide.

If the chief judge is disqualified or is unavailable to serve, the reviewing official will be the circuit judicial council or its designee, which may include the chief judge of the circuit.