

**PROCEDURES FOR THE REVIEW BY
THE JUDICIAL COUNCIL OF THE SIXTH CIRCUIT OF
FINAL DECISIONS OR SUMMARY DISMISSALS OF
COMPLAINTS FILED PURSUANT TO THE EMPLOYMENT DISPUTE
RESOLUTION PLAN**

PROCEDURES FOR PUBLIC DISCLOSURE OF DECISIONS

§ 1 Who May Seek Review.

(a) Generally. Any party or individual aggrieved by a final decision or summary dismissal of a complaint issued by a chief judge or designated judicial officer pursuant to an Employee Dispute Resolution (EDR) Plan adopted by a court within this circuit may file a petition for review of the decision pursuant to the following procedures.

(b) Definitions. A party is the individual who filed the complaint or the employing office that would be responsible for redressing, correcting or abating the violations alleged in the complaint. An aggrieved individual is an employee of the court employing office against which the complaint was filed who is adversely affected in grade, salary or conditions of employment by reason of the decision sought to be reviewed. For purposes of these procedures, the party or individual seeking review shall be designated as the “petitioner” and the party or individual seeking to uphold the decision shall be designated as the “respondent.”

§ 2 Petition for Review.

(a) Time. A petition for review must be received in the office of the circuit executive within 10 days of the date of the order that is the subject of the petition.

(b) Form; Number of Copies. A petition should be in the form of a letter, addressed to the circuit executive, beginning “I hereby petition the judicial council for review of [name of chief judge or designated judicial officer]’s order. . . .” A petition should be typewritten if possible. If not typewritten, it must be clearly legible. Only an original is required. The petition must be signed.

(c) Where to file. Petition letters should be sent to the Office of the Circuit Executive, 503 Potter Stewart United States Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202.

§ 3. Action by Circuit Executive upon Receipt of a Petition for Review.

(a) Receipt of timely petition in proper form. Upon receipt of a petition for review filed within the time allowed and in proper form under these rules, the circuit executive will acknowledge receipt of the petition. The circuit executive will promptly send a copy of the petition for review to all other parties to the complaint and to the EDR coordinator for the court employing office.

(b) Receipt of untimely petition. The circuit executive will refuse to accept a petition that is received after the deadline set forth in section 2(a).

(c) Receipt of timely petition not in proper form. Upon receipt of a petition filed within the time allowed but not in proper form under these rules (including a document that is ambiguous about whether a petition for review is intended), the circuit executive will acknowledge receipt of the petition, call the petitioner's attention to the deficiencies, and give the petitioner the opportunity to correct the deficiencies within 10 days of the date of the circuit executive's letter. If the deficiencies are corrected and received within the time allowed, the circuit executive will proceed in accordance with paragraph (a) of this rule. If the deficiencies are not corrected within the time allowed, the circuit executive will reject the petition.

§ 4. Record of Proceedings.

(a) Composition of the Record. The record of proceedings for purposes of the petition for review shall consist of the original papers filed in connection with the complaint. The record shall include the complaint, any written response thereto, documents or exhibits produced by the complainant or the head of the employing office against which the complaint has been filed, the transcript of any hearings held by the chief judge or presiding judicial officer, and a copy of the written decision of the chief judge or presiding judicial officer.

(b) Transmission of the Record. The EDR Coordinator shall transmit the record of proceedings to the circuit executive within 10 days of receipt of the copy of the petition for review. The EDR Coordinator shall number the documents comprising the record and transmit with the record a list of the documents correspondingly numbered and identified with reasonable definiteness.

(c) Notice of the Filing of the Record. The circuit executive shall notify the parties upon the filing of the record of proceedings with the Judicial Council.

§ 5. Written Arguments of the Parties.

(a) Memoranda. The petitioner and respondent shall file written memoranda setting forth their respective contentions with regard to the issues presented and the reasons therefore, with citations to parts of the record relied upon. The memorandum of the petitioner shall contain a brief statement of the relief sought.

(b) Response. The petitioner and the respondent may file a response to the opening memorandum filed by the opposing party.

(c) Time. The petitioner and respondent shall file and serve their memoranda within 21 days of the date upon which the record of proceedings was filed with the Judicial Council. Response memoranda shall be filed within 14 days of the date of filing of the opening memorandum filed by the opposing party.

(d) Copies. Each party shall file an original and three copies of their memorandum. Each party also shall serve a copy on the opposing party.

(e) Form. Memoranda shall be typewritten on plain paper 8½ by 11 inches in size. Text shall be double spaced.

(f) Length. Opening memoranda shall not exceed 20 pages in length. Reply memoranda shall not exceed 5 pages in length.

§ 6. Reviewing Panel

(a) Reviewing Panel. A petition for review of a final decision or summary dismissal of a complaint issued by a chief judge or designated judicial officer pursuant to an Employee Dispute Resolution (EDR) Plan shall be considered by a Reviewing Panel consisting of three members of the Sixth Circuit Judicial Council.

(b) Composition of the Reviewing Panel. The Reviewing Panel shall consist of three members of the Sixth Circuit Judicial Council selected by random draw by the circuit executive from the members of the council who are eligible to serve. No judge may serve on a Reviewing Panel to consider a petition for review arising from that judge's court.

§ 7. Review Procedures

(a) Review on the Record. The Reviewing Panel shall consider the petition for review, the written memoranda of arguments filed by the petitioner and the respondent, and the record of proceedings. In its discretion, the Reviewing Panel may allow the parties to submit oral argument in addition to written argument, but it will not reopen the record to receive additional testimony or other evidence.

(b) Remedies. The Reviewing Panel may affirm, reverse, vacate or modify the decision which is the subject of the petition for review. The decision which is the subject of the petition for review shall be affirmed if supported by substantial evidence.

(c) Notice of Action of Reviewing Panel. The decision of the Reviewing Panel shall be by written order and accompanied by a memorandum which shall state the reasons for the decision. A copy of the order and memorandum shall be provided by the circuit executive to the parties and to the EDR Coordinator for the employing office that was the subject of the complaint.

§ 8. Finality.

Decisions of a Reviewing Panel shall be final and shall not be subject to further review by the Judicial Council.

§ 9. Confidentiality.

(a) General. The records and papers relating to a petition for review shall be treated as confidential and shall not be disclosed by any judge or employee unless the Reviewing Panel concludes that such disclosure is justified by special circumstances.

(b) Decision of the Reviewing Panel. The memorandum stating the reasons for the decision of the reviewing panel shall not identify the petitioner or the court employing office that was the subject of the complaint.

§ 10. Public Disclosure of Decisions.

(a) General Rule. A final decision or summary dismissal of a complaint issued by a chief judge or designated judicial officer pursuant to an Employee Dispute Resolution (EDR) Plan or a final decision issued by a Reviewing Panel pursuant to these procedures shall be by written order and accompanied by a memorandum which shall state the reasons for the decision. The memorandum stating the reasons for the decision of the chief judge or designated judicial officer or reviewing panel shall not identify the petitioner or the court employing office that was the subject of the complaint.

(b) Filing; availability. The memorandum which states the reasons for the decision of the chief judge, designated judicial officer or reviewing panel shall be filed with the EDR coordinator for the court in which the complaint arose. The EDR coordinator shall maintain such memoranda of decisions in a file that is accessible to the public for inspection during normal office hours.