

Judicial Council of the Fourth Circuit
Procedures for Considering Petitions for Review
and
Public Availability of Final Decisions
of
Complaints Filed Under
Employment Dispute Resolution Plans
of the
United States Courts
of the
Fourth Circuit

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§ 1 Review of Decision

A. Notice of Procedures for Review

A party or individual aggrieved by a final decision of the Chief Judge, or by a summary dismissal of the complaint, may petition for review of that decision under the following procedures established by the Judicial Council of the Circuit. The EDR Coordinator shall inform all persons served with notice of the final decision of the Chief Judge of the procedures for seeking review by the Judicial Council.

B. Timing and Form of Petition for Review

A petition for review must be received by the EDR Coordinator within 30 days of the date of the letter to the parties transmitting the order. The petition should be in the form of a letter, addressed to the EDR Coordinator, beginning "I hereby petition the judicial council for review of the Chief Judge's order under the Employee Dispute Resolution Plan of the **[name of court]**" There is no need to enclose a copy of the original complaint. Only one copy of the petition is required. The letter should set forth a brief statement of the reasons why the petitioner believes that the Chief Judge or designated judicial officer's determinations were in error. The letter must be signed.

C. Receipt of Timely Petition in Proper Form

Upon receipt of a petition for review of the order of the Chief Judge within the time allowed and in proper form, the EDR Coordinator will acknowledge receipt of the petition and promptly send a copy of the petition and the following materials to the Circuit Executive:

1. the complaint and any statement of facts;
2. any response filed;
3. any record of information received by the Chief Judge in connection with consideration of the complaint;
4. any findings and recommendations made in the case by the Chief Judge's designee;
5. any objections to the designee's findings and recommendations;
6. the Chief Judge's order disposing of the complaint;
7. any memorandum in support of the order;
8. any other documents that appear to be relevant and material to the petition

Upon receipt of these materials, the Circuit Executive will acknowledge receipt of the petition for review and forward copies of all materials and a ballot to each member of the Judicial Council, except for any member disqualified under Subsection F of this Section.

D. Receipt of Untimely Petition

The EDR Coordinator will dismiss a petition that is not received within 30 days of the date of the letter transmitting the Chief Judge's order.

E. Receipt of Timely Petition Not In Proper Form

Upon receipt of a petition filed within the time allowed but not in proper form (including a document that is ambiguous about whether a petition for review is intended), the EDR Coordinator 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 15 days of the date of the letter. If the deficiencies are not corrected within the time allowed, the EDR Coordinator will dismiss the petition.

F. Consideration of Petition

Each member of the Judicial Council to whom a ballot was sent will return a signed ballot, or otherwise communicate the member's vote, to the Circuit Executive. The ballot form will provide opportunities to vote to (1) affirm the Chief Judge's disposition, or (2) place the petition on the agenda of a meeting of the Judicial Council. The form will also provide an opportunity for members to indicate that they have disqualified themselves from participating in consideration of the petition. Any judge who acted on the complaint, will not participate in the Council's consideration of the petition for review.

Review will be based on the record created before the Chief Judge, and the order shall be affirmed if supported by substantial evidence.

If a majority of the votes cast should be for affirmance, the Chief Judge's order will be affirmed, and the Circuit Executive will prepare an appropriate order to that effect, but if any of the members vote to place the petition on the agenda of a Council meeting, that will be done. If a petition is placed on the agenda of a meeting of the Judicial Council, Council action may be taken by a majority of the members present and voting.

G. Timing and Notice of Decision

If the petition is in proper form, the Judicial Council shall render its decision within 30 days after receipt of the petition for review unless the deadline is extended by the Council for good cause. The original of the order shall be filed with the EDR Coordinator, and the EDR Coordinator will promptly transmit copies of the order to the parties and their representatives.

H. Finality

Decisions of the Judicial Council are final and conclusive and shall not be judicially reviewable on appeal or otherwise.

§ 2 Record of Final Decisions

Final decisions of the Chief Judge and of the Judicial Council shall not name the complainant or individual respondents. In addition, the Chief Judge has the discretion to remove sensitive information contained in the final decision that may inadvertently identify the parties. Once final action on a complaint has been taken and is no longer subject to review, the final decision of the Chief Judge and of the Judicial Council shall be available to the public free of charge by written request to the EDR Coordinator.