

# Guide to Judiciary Policy

Vol. 12: Human Resources

## Ch. 2: Fair Employment Practices

[§ 210 Overview](#)

[§ 210.10 Applicability](#)

[§ 220 Antidiscrimination Policy](#)

[§ 230 Workplace Fairness, Safety, Leave, and Privacy Policies](#)

[§ 240 Equal Opportunity Employment Practices](#)

[§ 250 Employment Dispute Resolution Plans](#)

[§ 260 Personal Assistants for Individuals with a Disability](#)

Appendices

Appx. 2A Model Equal Employment Opportunity (EEO) Plan

Appx. 2B Model Employment Dispute Resolution (EDR) Plan

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### § 210 Overview

This chapter sets forth policy on equal employment opportunity and fair employment practices for the judiciary in its role as an employer. The judicial branch demonstrates its commitment to a fair and inclusive workforce by:

- an explicit antidiscrimination policy,
- numerous workplace fairness policies,
- ongoing equal opportunity employment practices,
- individualized employment dispute resolution plans, and
- a demonstrable commitment to reasonable accommodation for qualified individuals with a disability.

### § 210.10 Applicability

- (a) The policies in this chapter apply to all court units within the judiciary other than the U.S. Supreme Court.
- (b) The policies in this chapter do **not** apply to:

- the Federal Judicial Center,
- the United States Sentencing Commission,
- the Judicial Panel for Multidistrict Litigation, or
- the Administrative Office of the U.S. Courts (AO).

**Note:** Each of the above organizations is responsible for identifying and implementing its own fair employment policies and practices.

## § 220 Antidiscrimination Policy

- (a) Discrimination or harassment directed at a judiciary employee due to race, color, religion, national origin, sex, age, or disability is prohibited in accordance with the long-standing national policy of the judiciary to promote equal employment opportunity. [JCUS-SEP 66](#), p. 62; [JCUS-SEP 79](#), p. 58; [JCUS-MAR 80](#), p. 5 (adopting Model Equal Employment Opportunity (EEO) Plan); [JCUS-SEP 86](#), pp. 57-58 (amending 1980 EEO Plan); [JCUS-MAR 97](#), p. 28 (adopting Model Employment Dispute Resolution (EDR) Plan); [JCUS-MAR 10](#), p. 20 (adopting Model EDR Plan); JCUS-SEP 2018, p. \_\_ (updating Model EDR Plan). **See:** Appx. 2A (Model EEO Plan) and Appx. 2B (Model EDR Plan).
- (b) Retaliation for engaging in protected activity in defense of these rights is also strictly prohibited. [JCUS-MAR 97](#), p. 28 (adopting Model EDR Plan).
- (c) Federal courts support equal opportunity in “all facets of personnel management, including recruitment, hiring, promotion, and advancement.” [JCUS-MAR 80](#), p. 5 (adopting EEO Plan); [JCUS-SEP 86](#), pp. 57-58 (amending 1980 EEO Plan). This includes developing annual objectives for meeting these goals and an annual report highlighting achievements and describing barriers. [JCUS-MAR 80](#), p. 5 ; [JCUS-SEP 86](#), pp. 57-58.

## § 230 Workplace Fairness, Safety, Leave, and Privacy Policies

- (a) Whistleblower Protection

As a matter of judiciary policy, employees are protected from retaliation for reporting violations of law, gross waste of funds or mismanagement, or public health or safety dangers. Supervisors with the authority to take personnel actions may not take or threaten to take an adverse action against an employee because of protected whistleblowing disclosures. [JCUS-SEP 12](#), p. 26.

(b) Family and Medical Leave Act

Many employees, as a result of judiciary policy and law, have the right to take leave to care for a family member, an adopted or foster child, or for a serious health condition that makes the employee unable to perform the essential functions of his or her job, as provided under the Family and Medical Leave Act of 1993, [5 U.S.C. §§ 6381 et seq., as amended. JCUS-MAR 97](#), p. 28

(c) Military Reemployment Rights

Judiciary policy and law protect the reemployment rights of many employees who leave their position to serve in the military. [JCUS-MAR 97](#), p. 28 (adopting Model EDR Plan, Chapter V; Uniformed Services Employment and Reemployment Rights Act, [38 U.S.C. §§ 4301 et seq.](#)).

(d) Worker Adjustment and Retraining Notification

It is the policy of the judiciary that employees who face certain types of office closings or reductions in force are provided with notice similar to that required under the Worker Adjustment and Retraining Notification Act. [JCUS-MAR 97](#), p. 28.

(e) Safe Workplace Conditions

It is the policy of the judiciary to promote safe workplace conditions, following the principles of the Occupational Safety and Health Act of 1970, as amended. [JCUS -MAR 97](#), p. 28.

(f) Employee Polygraph Protection

Judiciary policy prevents mandated polygraph testing of employees, under the Employee Polygraph Protection Act, [29 U.S.C. §§ 2001 et seq. JCUS-MAR 97](#), p. 28.

## § 240 Equal Opportunity Employment Practices

- (a) The judiciary of the United States, as a matter of policy, has established and implemented equal employment practices to promote and facilitate diversity and inclusion in its workforce. To that end, each federal court unit adopts and implements a plan tailored to its own needs based on the Model Plan established by the Conference. Annually, the Director reports to the Judicial Conference on the Judiciary's Fair Employment Program. [JCUS-SEP 79](#), p. 58; Appx. 2A (Model EEO Plan, Section VI of Appendix I) and Appx. 2B (Model EDR Plan, at 1).

- (b) The [Strategic Plan for the Federal Judiciary](#) highlights the Third Branch's commitment to fair employment practices and emphasizes the importance of diversity in its workforce, through expansion of appropriate recruitment, education, and training. Moreover, it is the judiciary's goal to "[a]ttract, recruit, develop and retain the most qualified people to serve the public" in its workforce, "emphasizing a commitment to nondiscrimination both in hiring and in grooming the next generation of judiciary executives and senior leaders." *Strategic Plan for the Federal Judiciary*, Sept. 2015, p.10.

## § 250 Employment Dispute Resolution Plans

- (a) The Judicial Conference adopted the Federal Judiciary Model Employment Dispute Resolution Plan (Model EDR Plan), as amended, to provide judiciary employees with rights and protections similar to those provided to legislative branch employees under the Congressional Accountability Act of 1995.
- (b) Judicial Conference policy requires courts to adopt the Model EDR Plan (Appx. 2B) either as written or with modifications.
- (c) The Model EDR Plan as defined above as well as courts' local EDR plans are implemented to resolve allegations of discrimination and workplace violations and must be posted on the courts' respective internal and external websites.
- (d) The general procedure for consideration of an alleged claim of discrimination or a workplace violation includes:
- counseling,
  - mediation,
  - hearing before a judicial officer, and
  - review of the hearing officer's decision by the judicial council of the circuit.
- (e) Because the Model EDR Plan and a local court's EDR plan may vary, employees should always consult the relevant local EDR plan.
- (f) The amended Model EDR Plan, like many courts' local EDR plans, includes both a special third-party reporting process for wrongful conduct to bring these matters quickly to management's attention as well as a process for invoking whistleblower protection for reporting violations of law, gross waste of funds or mismanagement, or public health or safety dangers. **See generally:** [JCUS-MAR 97](#), p. 28; [JCUS-MAR 10](#), p. 28; [JCUS-SEP 12](#), p. 26.

## **§ 260 Personal Assistants for Individuals with a Disability**

The Judicial Conference has adopted policy to implement reasonable accommodation for its judicial officers and employees with a disability, including, where appropriate, personal assistants, such as a reader to accommodate the needs of a blind individual or an interpreter for a person who is hearing impaired and uses sign language. [JCUS-MAR 98](#), p. 23; [JCUS-MAR 01](#), pp. 18-19, 25-26. This authority is now set forth expressly in [5 U.S.C. § 3102](#).