

SECOND CIRCUIT JUDICIAL COUNCIL

PETITIONS FOR REVIEW OF FINAL DECISIONS FROM THE COURT OF APPEALS, DISTRICT and BANKRUPTCY COURTS, PROBATION and PRETRIAL SERVICES OF EMPLOYEE DISPUTE RESOLUTION COMPLAINTS

Adopted: December 14, 2011

A. Preamble. These rules are adopted under Section 11 of the Federal Judiciary Model Employment Dispute Resolution Plan (“Model EDR Plan”). The definitions contained in the Model EDR Plan are incorporated herein.

B. Petitions for Review. A party or individual aggrieved by a final decision of the chief district judge or presiding judicial officer, or by a summary dismissal of the complaint, may petition for review to the Second Circuit Judicial Council. A panel of no fewer than five members of the Judicial Council conducts the review. The review is based on the record created by the hearing officer. The panel must affirm the decision if supported by substantial evidence. The determination of the panel is not subject to further review.

B. When to file; Form; Where to file. A petition for review must be filed in the Office of the Circuit Executive within 30 days after entry of the final decision or summary dismissal. A claim that was not presented in the complaint may not be pursued in the petition for review. Petitioner shall utilize the petition for review form, Appendix A of this Plan.

C. Response. Within 21 days after the filing of the petition for review (or any later corrected petition for review), a response may be filed with the Office of the Circuit Executive, addressing only the specific claims raised in the petition.

D. Receipt and Distribution of Petition and Response. The Circuit Executive will acknowledge receipt of a timely petition or response, and send a copy to the opposing party.

E. Untimely Filing. The Circuit Executive must refuse to accept a petition or response that is received after the applicable deadline in (B) or (C).

F. Timely Filing not in Proper Form. If a timely petition or response is not in a form that would allow useful consideration by the Judicial Council, the Circuit Executive will advise the filer to correct the deficiencies within 14 days; otherwise the petition or response will be rejected.

G. Notice of the Panel's Decision. The Circuit Executive will promptly distribute a copy of the panel's decision to the petitioner, the respondent, and the hearing officer. The panel may also instruct the Circuit Executive to provide a copy to the Judicial Conference Committee on Judicial Conduct and Disability.

H. Public Availability of the Panel's Decision. When final action has been taken on a petition, all orders entered by the panel may be made public, without disclosure (however) of identifying information as to any party or individual, including the names of the complainant, the respondent, and the person alleged to have violated the complainant's rights.

**APPENDIX A
PETITION FOR REVIEW FORM**

Please attach additional pages, not to exceed five pages, if you require more space for any response. Be sure to indicate the question you are answering.

This form is three pages and requires your dated signature.

If you filed the underlying complaint, please be sure to attach:

- A.) Copies of your Request for Counseling, Request for Mediation, Request for a hearing, the notices of conclusion pertaining to each, the mediation report, and the hearing officer's final decision on the complaint.
- B.) Any additional documents which you feel relate to this appeal, for example, portions of the record on any hearing on the complaint.

If you did not file the underlying complaint, please attach only the last two items in paragraph A and any items that apply under paragraph B.

1. Full Name, Job Title & Phone:

2. State whether you filed the original complaint in this dispute or responded to it:

3. Provide the date on which the hearing officer's final decision was issued:

4. Name of person who represented you, if any, during any part of this dispute:

5. Please summarize the basis for your appeal. Explain in what way you believe the hearing officer's final decision is incorrect.

6. State the corrective action you seek:

7. Do you have an attorney or another person who represents you in connection with this appeal?

Yes

No

If yes, please provide the following information about your representative:

Name: _____

Employer: _____

Job Title: _____

Phone: _____

I swear or affirm that the information provided in this appeal is true and correct to the best of my knowledge.

Your signature

Date submitted

Office of the Circuit Executive:

Office of the Circuit Executive's Signature

Date received