

# **SPECIAL PROCEDURES FOR FEDERAL PUBLIC DEFENDER ORGANIZATION EMPLOYEES**

## **APPENDIX 7**

### **I. The Special Role of the Federal Public Defender's Organization Within the Federal Judiciary**

Although the Federal Public Defender's Organization (FPDO) is part of the Judicial Branch, FPDO employees perform unique duties within the Judicial Branch. Given the distinct role of the FPDO within the judiciary, special procedures govern the operation of the Eleventh Circuit Court of Appeals Employment Dispute Resolution Plan ("EDR Plan") when applied to FPDO employees who seek relief under this Plan.

### **II. Attorney-client and work-product obligations**

1. FPDO employees seeking relief under this EDR Plan, as well as other participants in the EDR process, must protect attorney-client and work-product privileged communications. *See* Code of Conduct for Federal Public Defender Employees, Canon 3(D).
2. Attorney-client and work-product privileged information must be redacted from any final decision under this Plan that is made available to the public.

### **III. Reporting of Wrongful Conduct**

1. As set out in § III of this EDR Plan, the Judiciary encourages the reporting of wrongful conduct to officials who are empowered to remedy that conduct in order that prompt action can be taken.
2. Accordingly, an FPDO employee should report wrongful conduct to a supervisor or human resources professional within the employee's FPDO office, an FPDO EDR Coordinator, an Eleventh Circuit Court of Appeals EDR Coordinator, the Circuit Director of Workplace Relations, the Chief Circuit Judge, or the national Office of Judicial Integrity.

#### **IV. FPDO EDR Coordinators**

1. Upon the approval of the Chief Circuit Judge, the FPDO will designate both a primary FPDO EDR Coordinator and at least one alternate FPDO EDR Coordinator for the particular FPDO office. An EDR Coordinator from another FPDO office may serve as the alternate Coordinator. The FPDO EDR Coordinator must be an FPDO employee and cannot be the Federal Public Defender.
2. An FPDO employee may seek the assistance of any FPDO EDR Coordinator within the Circuit. If an FPDO employee prefers not to utilize an FPDO EDR Coordinator for purposes of obtaining Informal Advice, the employee may contact an Eleventh Circuit Court of Appeals EDR Coordinator, the Circuit Director of Workplace Relations, or the national Office of Judicial Integrity.
3. If the FPDO employee prefers not to utilize an FPDO EDR Coordinator for purposes of pursuing Assisted Resolution, the employee may seek the assistance of an Eleventh Circuit Court of Appeals EDR Coordinator or the Circuit Director of Workplace Relations.
4. A Formal Complaint can be filed only with an Eleventh Circuit Court of Appeals EDR Coordinator.

#### **V. Presiding Judicial Officer in a Complaint Filed by an FPDO Employee**

1. A district court is responsible for the supervision of its employees, for ensuring a non-discriminatory workplace, and for overseeing its EDR process to ensure that these goals are being met. In contrast, a district court has no role in hiring, firing, or supervising a Federal Public Defender or the Defender's employees. Accordingly, as with any other attorney who appears before the court, no employer-employee relationship exists between a district court and attorneys employed by the district's FPDO office.
2. Allowing a district court judge before whom FPDO attorneys appear to process, adjudicate, or otherwise participate in the EDR process concerning complaints made by FPDO employees could give the court access to sensitive information about the internal operations of

the FPDO, which access could undermine the appearance of judicial objectivity when FPDO attorneys later appear before the court.

3. For these reasons, a judicial officer in the district where the FPDO practices cannot serve as a Presiding Judicial Officer over an EDR complaint filed by the Federal Public Defender or by an employee of the FPDO.

## **VI. Retention of Records**

1. When an FPDO Coordinator has been consulted by an FPDO employee and no Formal Complaint under this EDR Plan has been filed, all papers, files, and reports relating to the Informal Advice and Assisted Resolution will be maintained by the FPDO Coordinator.
2. An FPDO employee who files a Formal Complaint can do so only through an Eleventh Circuit Court of Appeals EDR Coordinator. Accordingly, the Eleventh Circuit Court of Appeals EDR Coordinator will maintain all records pertaining to the complaint process and further may obtain copies of all records generated during any Assisted Resolution process to the extent such records become relevant to adjudication of the employee's Complaint.
3. No papers, files, or reports relating to an EDR matter will be filed in any employee's personnel folder, except as necessary to implement an official personnel action.