



History and Evolution of the Federal Judiciary's Workplace Conduct Policies



The federal employment laws that prohibit discrimination and harassment based on race, color, national origin, gender, religion, disability, and age (over 40) have never been made applicable to federal Judicial branch employees.

1939

Prior to 1939, Congress and the executive branch ran the administration of the Judiciary. In 1939, Public Law 76-299 (53 Stat. 1223) establishes the Judicial Councils of the circuits to separate the federal courts from the Justice Department. The law created the Administrative Office of the Courts (AO), to compile statistical data on operation of the courts, and established two entities in each judicial circuit to consider the reports provided by the AO and take necessary action.

1980

Judicial Conference of the U.S. Courts (JCUS), the governing body of the federal judiciary, adopted a Model Equal Employment Opportunity Plan, amended in 1986, that set equal opportunity standards for all federal courts to follow.

Prior to 1870, the administration of the Judiciary was left to the Department of Treasury and Interior, as well as the discretion of Congressional Committees. By 1870, the Department of Justice was created and held responsibility of administration until 1939.

1996

The Judiciary reaffirms it would like to be exempt from national workplace misconduct laws in report to Congress.

The 1997 Model EEO-EDR Plan was modeled after the Congressional Accountability Act in that the process required a Request for Counseling, then a Request for Mediation, before a Complaint be filed; however, it never provided for monetary remedies (it prohibited them) nor permitted Judicial branch employees the option to file civil action.

1997

JCUS adopted a Model Equal Employment Opportunity and Employment Resolution Plan (Model EEO-EDR Plan)

Model EEO-EDR Plan was amended to specify procedures for claims involving judges, broaden the definition of harassment; add a reporting process; allow for summary dismissals of claims; and clarify confidentiality protections

Model EEO-EDR Plan was amended to add a whistleblower anti-retaliation provision

2012

2010

Chief Justice calls to create a Federal Judiciary Conduct Working Group (JCWG)

2017

The amended model now prohibits discrimination based on sexual orientation and gender identity; adds protections against "abusive conduct"; adds an informal resolution option; and eliminates mandatory prerequisites to filing a complaint.

The JCWG recommended measures to improve workplace conduct policies and procedures

2018

The current model continues to prohibit monetary remedies and the option to file civil action. Furthermore, this system is fully internal to the Judiciary and lacks public transparency on how the system is working in practice. **The Model Employment Dispute Resolution process lacks public transparency both as to how it works in practice and its actual decisions, which are only made public upon specific request.** In practice, Courts adopt an EDR plan based off the model plan, but no entity checks if their substantive changes diminish the rights of employees.

Model EEO-EDR Plan was amended to extend the deadline to file a Complaint from 30 to 180 days, and to cover unpaid interns and externs

June 2018

Renamed Model Employment Dispute Resolution Plan was amended

2019

Federal Judiciary Workplace Conduct Working Group reported the steps the Judiciary has taken since 2018. The Group released a status report in 2019 as well.

2022