

REPORT SUMMARY: SYSTEMS TO PREVENT WORKPLACE SEXUAL HARASSMENT, ASSAULT, AND MISCONDUCT IN THE FEDERAL JUDICIARY



Directed by Congresswoman Torres’s provision in the *Consolidated Appropriations Act of 2023*, two independent research entities, the Federal Judicial Center (FJC) and the National Academy of Public Administration (NAPA), partnered to assess the federal Judiciary’s systems to prevent sexual assault, harassment, and workplace misconduct.

The House Appropriations Committee funded this joint study to aid Congress’s oversight of federal funding of these systems and ensure every Judiciary employee is protected. The investigators interviewed a wide variety of employees, from Circuit Directors of Workplace Relations to judges, to examine the **Implementation** of the Model Employment Dispute Resolution (EDR) Plans, **Monitoring and Assessment** of the Resolution Processes, **Education and Outreach Efforts** Related to Workplace Issues, and **Evaluation** of Public-Facing Judiciary Websites. They included 34 recommendations for reform.

NO OVERSIGHT:

The Judiciary’s systems depend upon the good character of individuals, there is not an established system that monitors and evaluates outcomes (4.1/5.1).

KEY FINDINGS

- No one entity is tasked with overseeing the systems that prevent or confront misconduct, including the Informal Advice and formal EDR process, the investigation of cases, preventative training, and preventative measures (4.1, 4.2, 5.1, 5.2, pg. 10, 75).
- No comprehensive plan to monitor and evaluate the effectiveness of the EDR plans and resolution process exists (5.1).
- No audits or data are required to monitor or evaluate the implementation of the dispute process or preventative measures (4.2, 5.1, 6.5, 6.6, pg. vii).
- There is no requirement in EDR plans for employees or judges to attend trainings or any preventative educational measures (6.6).

LACK OF TRANSPARENCY, DATA, AND SHARING BEST PRACTICES:

Lack of record keeping and transparency makes the system vulnerable to compliance issues.

KEY FINDINGS

- No tracking, data keeping, or documenting exists for Informal Advice, the most used process to address workplace harassment and misconduct (5.2).
- There is a lack of confidential reporting tools (7.8).
- No standardization of materials or formal sharing of best practices exists (6.4, pg. 54).
- A national policy for publishing the final decisions of EDR cases is needed (4.11, pg. 56).
- Judges are not able to view a comprehensive collection of previously decided cases to help standardize cases (pg. 51).

The Judiciary requires each court to have a plan to address employment disputes (EDR plan) and to post relevant information on its websites for employees to know their rights.

- Only 26% of public judiciary websites fulfill all the requirements (pg. 83).
- 11% of websites have NO workplace conduct information. (pg. 83, Chapter 7)

Additionally, most judges agreed that a presiding judge should be chosen from outside the court where a complaint originated, as many judges are uncomfortable sitting in the judgement of other judges, and potential conflicts of interest remain (pg. 53-55).

LACK OF RESOURCES AND SUPPORT:

The Judiciary’s systems lack proper guidance for employees to come forward and seek justice.

KEY FINDINGS

- Additional resources are needed to monitor and evaluate these systems (5.3).
- The Law Clerk – Judge relationship is especially perilous, and structural power imbalances need to be addressed (4.7).
- The national model EDR plan does not provide presiding judicial officers proper guidance on the rights of parties involved in disputes, which may lead to inconsistencies and diminishment of employee and judge rights (pg. 51, 4.5, 6.8).
- Since bystander provisions proved to be an insufficient stimulus, monetary damages should be added to encourage employees and judges to come forward about workplace misconduct (pg. 53, 4.8).

