

**RULE 18 | PETITION FOR REVIEW OF CHIEF-JUDGE DISPOSITION UNDER
RULE 11(C), (D), OR (E)**

(a) Petition for Review. After the chief judge issues an order under Rule 11(c), (d), or (e), the complainant or the subject judge may petition the judicial council of the circuit to review the order. By rules promulgated under 28 U.S.C. §358, the judicial council may refer a petition for review filed under this Rule to a panel of no fewer than five members of the council, at least two of whom must be district judges.

(b) When to File; Form; Where to File. A petition for review must be filed in the office of the circuit clerk within 42 days after the date of the chief judge's order. The petition for review should be in letter form, addressed to the circuit clerk, and in an envelope marked "Misconduct Petition" or "Disability Petition." The name of the subject judge must not be shown on the envelope. The petition for review should be typewritten or otherwise legible. It should begin with "I hereby petition the judicial council for review of..." and state the reasons why the petition should be granted. It must be signed.

(c) Receipt and Distribution of Petition. A circuit clerk who receives a petition for review filed in accordance with this Rule must:

(1) acknowledge its receipt and send a copy to the complainant or subject judge, as the case may be;

(2) promptly distribute to each member of the judicial council, or its relevant panel, except for any member disqualified under Rule 25, or make available in the manner provided by local rule, the following materials:

(A) copies of the complaint;

(B) all materials obtained by the chief judge in connection with the inquiry;

(C) the chief judge's order disposing of the complaint;

(D) any memorandum in support of the chief judge's order;

(E) the petition for review; and

(F) an appropriate ballot; and

(3) send the petition for review to the Committee on Judicial Conduct and Disability. Unless the Committee on Judicial Conduct and Disability requests them, the circuit clerk will not send copies of the materials obtained by the chief judge.

(d) Untimely Petition. The circuit clerk must refuse to accept a petition that is received after the time allowed in (b).

(e) Timely Petition Not in Proper Form. When the circuit clerk receives a petition for review filed within the time allowed but in a form that is improper to a degree that would substantially impair its consideration by the judicial council – such as a document that is ambiguous about whether it is intended to be a petition for review – the circuit clerk must acknowledge its receipt, call the filer’s attention to the deficiencies, and give the filer the opportunity to correct the deficiencies within the original time allowed for filing the petition or within 21 days after the date on which a notice of the deficiencies was sent to the complainant, whichever is later. If the deficiencies are corrected within the time allowed, the circuit clerk will proceed according to paragraphs (a) and (c) of this Rule. If the deficiencies are not corrected, the circuit clerk must reject the petition.

Commentary

Rule 18 is adapted largely from the Illustrative Rules.

Subsection (a) permits the subject judge, as well as the complainant, to petition for review of the chief judge’s order dismissing a complaint under Rule 11(c), or concluding that appropriate corrective action or intervening events have remedied or mooted the problems raised by the complaint pursuant to Rule 11(d) or (e). Although the subject judge may ostensibly be vindicated by the dismissal or conclusion of a complaint, the chief judge’s order may include language disagreeable to the subject judge. For example, an order may dismiss a complaint, but state that the subject judge did in fact engage in misconduct. Accordingly, a subject judge may wish to object to the content of the order and is given the opportunity to petition the judicial council of the circuit for review.

Subsection (b) contains a time limit of 42 days to file a petition for review. It is important to establish a time limit on petitions for review of chief judges’ dispositions in order to provide finality to the process. If the complaint requires an investigation, the investigation should proceed; if it does not, the subject judge should know that the matter is closed.

The standards for timely filing under the Federal Rules of Appellate Procedure should be applied to petitions for review. See Fed. R. App. P. 25(a)(2)(A), (C).

Rule 18(e) provides for an automatic extension of the time limit imposed under subsection (b) if a person files a petition that is rejected for failure to comply with formal requirements.