



SECRETARIAT

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& 311.01

DIRECTOR-GENERAL'S BULLETIN

Protection against retaliation for reporting misconduct or cooperating with audits or investigations

1. The purpose of the present policy is to establish the framework and procedures for the protection of those individuals working for the Organization who report misconduct, provide information in good faith on alleged wrongdoing, or cooperate with an audit or investigation. In the interest of simplicity, and for the purpose of this bulletin, the term "whistleblower" will be used for such individuals. This bulletin is based on the policy established by the Secretary-General of the United Nations.¹
2. In the case of staff members,² retaliation and other misconduct identified in the present bulletin will be dealt with according to the procedure laid out in the Administrative Circular UNIDO/DA/PS/AC.87 on Disciplinary Measures. In the case of non-staff employees, retaliation and other misconduct identified in the present bulletin will be dealt with in accordance with the relevant provisions of their respective contracts.
3. The present bulletin shall also be read in conjunction with other administrative issuances regulating matters of relevance to the present policy such as the Internal Audit Group Charter UNIDO/DGB/(M).92/Rev.1 issued on 8 November 2005, UNIDO/ADM/HRM/INF.17 of 4 March 2003 on Standards of Conduct for the International Civil Service 2001, UNIDO/ADM/HRM/INF.57 of 27 October 2005 on Standards of Conduct, Personal Behaviour of Staff, and UNIDO/DGB/(M).115 of 1 March 2010 entitled "UNIDO Code of Ethical Conduct."
4. The procedures laid out in the present bulletin are without prejudice to the rights of whistleblowers to seek redress through either the internal recourse mechanisms set forth in Chapter XII and Appendix K to the 100, 200 and 300 series of the Staff Rules or through any applicable mechanism described in their respective contracts.

1. Secretary-General's Bulletin ST/SGB/2005/21 of 19 December 2005 entitled "Protection for reporting misconduct and for cooperating with duly authorized audits or investigations."

2. That is individuals employed under the 100, 200 and 300 series of the Staff Rules.



Section 1 - General

Definition

5. Retaliation means any direct or indirect detrimental action recommended, threatened or taken by any party against a whistleblower because he/she engaged in an activity protected by the present policy. When established, retaliation constitutes misconduct and will lead to disciplinary actions and/or other appropriate measures.

Rights and Duties of Individuals

6. No individual associated with UNIDO shall retaliate against a whistleblower, including where the whistleblower is an outside party such as a contractor and/or its employee, agent or representative or any other individual engaged in any dealings with UNIDO.
7. While it is the duty of individuals to report any breach of the Organization's regulations and rules to the officials whose responsibility it is to take appropriate action, individuals who make such a report in good faith have the right to be protected against retaliation.
8. It is also the duty of the individuals to cooperate with audits and investigations. Individuals who cooperate in good faith with an audit or investigation also have the right to be protected against retaliation.
9. All offices and individuals shall cooperate with the Office of Internal Oversight Services (IOS) and the Human Resource Management Branch (HRM) and provide access to the relevant records and documents, except for medical records that should not be made available without the express consent of the person concerned. For the respective roles of the Focal Point for Ethics and Accountability (hereinafter, the "Ethics Office"), IOS, and HRM, the reader is referred to paragraphs 21, 25 and 30 to 33 below. Provisions concerning confidentiality of information are contained in Section 7 of the present bulletin.

Scope of application

10. The present bulletin and the protection against retaliation applies to whistleblowers who are either staff members appointed under any of the series of the Staff Rules, or who are non-staff employees such as consultants, experts and interns, regardless of the duration of the appointment or equivalent arrangement.
11. While anonymous reports will receive due consideration by the Organization based on their own merits, protection under this bulletin cannot apply to the anonymous whistleblower.
12. Protection against retaliation under this bulletin applies to whistleblowers referred to in paragraph 10 above who:

- (a) report in good faith the alleged misconduct of one or more staff members or other personnel employed or supervised by UNIDO, such as the failure to comply with, or a request or instruction to violate, the Financial or Staff Regulations and Rules, relevant administrative issuances, the Standards of Conduct for the International Civil Service or the UNIDO Code of Ethical Conduct. For the whistleblower to be protected under this bulletin, the reporting must be made as soon as possible but not later than one year after the individual first became aware of the misconduct, and accompanied by available information or evidence that supports a reasonable belief that misconduct has occurred; or
 - (b) cooperate with an audit or investigation.
13. The present bulletin is without prejudice to the legitimate application of regulations, rules and administrative procedures, including those governing evaluation of performance, non-extension or termination of appointment. However, the Organization bears the burden of providing evidence that an alleged act of retaliation would have taken place absent the protected activity.
 14. The transmission or dissemination of rumours is not a protected activity. In addition, making a report or providing information that is intentionally false or misleading constitutes misconduct by itself and may result in disciplinary or other appropriate action.
 15. No payment or any other benefit shall be offered or accepted from any party for reporting misconduct or cooperating with audits or investigations.
 16. Protected activity as described in paragraph 12 above does not relieve the whistleblower from his/her own responsibility and liability under the applicable legal framework of the Organization.

Reporting misconduct

17. As per existing administrative issuances³ and depending on the nature of the misconduct, reports of misconduct should be made to one of the following offices:
 - (a) the Director, Human Resource Management Branch;
 - (b) the Office of Internal Oversight Services; or
 - (c) the Ethics Office.
18. Should a whistleblower report misconduct to a supervisor, chief, director or managing director of a unit, branch or division, the recipient should relay the information to the relevant office, as mentioned below.
19. It is the duty of the officials/offices mentioned in paragraphs 17 and 18 above to protect the confidentiality of the whistleblower's identity in all communications through those channels. Strict confidentiality requirements should be observed and are elaborated in

3. See UNIDO/DGB/(M).92/Rev.1 of 8 November 2005 and UNIDO/DGB/(M).94 of 6 June 2005 entitled "Policy on Fraud Awareness and Prevention."

Section 7 below.

Section 2 – Review of allegations of retaliation

Reporting retaliation and preliminary review of complaint

20. Whistleblowers who believe that retaliatory action has been or will be taken against them because they have reported misconduct or cooperated with an audit or investigation may seek protection against retaliation by forwarding their complaints as soon as possible to the Ethics Office with all information and documentation available to them to support their complaints. In this connection, the complaints may be made in person, or sent by registered mail, e-mail, or fax.
21. The functions of the Ethics Office with respect to protection against retaliation are as follows:
 - (a) to receive complaints regarding retaliation or threats of retaliation;
 - (b) to keep a confidential record of all complaints received;
 - (c) to conduct a preliminary review of the complaint to determine if (i) the complainant engaged in a protected activity; and (ii) there is a *prima facie* case that the protected activity was a contributing factor in causing the alleged retaliation or threat of retaliation.
22. The Ethics Office will seek to complete its preliminary review within 45 working days as of the date of receipt of the complaint of retaliation.
23. All offices, staff members and other personnel of UNIDO shall cooperate with the Ethics Office and provide access to all records and documents requested by the Ethics Office, except for medical records that are not available without the express consent of the staff member concerned and IOS records that are subject to confidentiality requirements.
24. If the Ethics Office finds that there is no *prima facie* case of retaliation or threat of retaliation, it will inform the complainant accordingly and advise him/her to seek redress through other available recourse mechanisms under the Staff Regulations, if necessary.
25. If the Ethics Office finds that there is a *prima facie* case of retaliation or threat of retaliation, it will refer the matter in writing to IOS for investigation and will immediately notify in writing the complainant that the matter has been so referred.
26. Where, in the opinion of the Ethics Office, there may be a conflict of interest in IOS conducting the investigation as referred to above, the Ethics Office may recommend to the Director-General that the complaint be referred to an alternative investigating mechanism.

Investigation or fact-finding by IOS of alleged retaliation

27. IOS or the alternative investigating mechanism will seek to complete its investigation and communicate its preliminary findings on the alleged retaliation to the complainant and other individuals directly concerned for comment within 85 working days as of the date of receipt of the case, unless the circumstances surrounding the investigation dictate otherwise.
28. Upon receipt of the preliminary findings, the individuals concerned shall provide their comments to IOS or the alternative investigating mechanism within 10 working days as of the date of receipt of the request.
29. Upon receipt of the comments from the individuals, IOS or the alternative investigating mechanism will incorporate them into the final report as deemed appropriate by the authors and will seek to finalize the report within 10 working days and submit it to the Director-General for further action as necessary. The comments made by the parties concerned shall be attached as an annex to the final report. The date of submission of the final report to the Director-General shall also be communicated to the complainant and to the Ethics Office.
30. Upon receipt of the final investigation report, the Director-General will review the recommendations contained therein and will decide either (i) to close the case in the event the report does not establish a credible case of retaliation or (ii) refer the case to HRM for appropriate action against the retaliator under the procedures set forth in UNIDO/DA/PS/AC.87 on disciplinary measures. The Director-General's decision on the report shall also be communicated to the complainant and to the Ethics Office.

Section 3 – Interim protective measures

31. Pending completion of the preliminary review of the complaint under paragraph 22 above and/or the investigation under paragraph 27 above, the Ethics Office may, in its judgment, or based on the *prima facie* evidence or findings of the preliminary review, recommend that the Director-General take, within the provisions of the Staff Rules appropriate interim measures to safeguard the interests of the parties. Such measures may include but are not limited to, temporary withholding of the implementation of the action reported as retaliatory and, with the consent of the party concerned, temporary reassignment of that party within or outside the party's office, function or project (in the case of project personnel) for which the whistleblower is qualified, or placement of that party on special leave with full pay.

Section 4 – Redress measures

32. If the case of retaliation against a whistleblower has been established, HRM may, after taking into account recommendations made by IOS or the alternative investigating mechanism and after consultation with the whistleblower concerned, recommend to the Director of the Branch or Managing Director of the Division concerned appropriate measures aimed at correcting any negative consequences that might have occurred. Such measures may include, but are not limited to, the rescission of the retaliatory decision,

including reinstatement, or, if requested by the whistleblower, transfer to another office, function or project (in the case of project personnel) for which the whistleblower is qualified, and whereby the whistleblower will gain independence of the retaliator.

33. Should HRM not be satisfied with the response from the Director or Managing Director concerned, it can make a recommendation on the appropriate action to the Director-General who will make the final decision.
34. Furthermore, the Organization's rules contain provisions whereby individuals, if affected, may seek appropriate redress.

Section 5 - Action against individual(s) who engaged in retaliation

35. Retaliation constitutes misconduct which, if established, will lead to the following measures depending on the employment status of the retaliator:
 - (a) staff members: disciplinary measures and appropriate other actions including, but not limited to, the non-renewal of appointment *in lieu* of disciplinary measures, termination of appointment or summary dismissal as provided for in the Staff Rules and Administrative Circular UNIDO/DA/PS/AC.87 on Disciplinary Measures;
 - (b) consultants, experts, and interns: appropriate actions provided for in the contracts or arrangements concluded with the individual(s) concerned, including, but not limited to, non-renewal of appointment or termination of the contract or arrangement.

Section 6 - Prohibition of retaliation against outside parties

36. Without widening the scope of the present bulletin, any retaliatory measures against a contractor or its employees, agents or representatives or any other individual engaged in any dealings with UNIDO because such a person has reported misconduct by UNIDO staff members or other personnel will be considered misconduct that, if established, will lead to disciplinary or other appropriate action against the retaliator.

Section 7 - Confidentiality of information

37. Strict standards of confidentiality shall be adhered to throughout the entire process described in the present bulletin by all parties, the whistleblower included.
38. The identity of the whistleblower shall not be disclosed.
39. Without prejudice to the above, disclosure of the identity of the whistleblower may be authorized under one of the following conditions:
 - (a) where the whistleblower has consented to the disclosure in writing;
 - (b) where it is determined from an earlier procedure described in this bulletin that the whistleblower knowingly and wilfully submitted a false complaint;
 - (c) where such a disclosure is necessary to ensure due process or for disciplinary or judicial proceedings, provided that the Director-General has approved the disclosure and that the whistleblower has been informed about the decision to disclose his/her identity prior to the disclosure.

40. Shall it indeed be necessary to disclose the identity of the whistleblower within the provisions of paragraph 39 above, he/she would continue to have a right to protection against retaliation, including additional measures in case there is a reason to believe that his/her safety might be jeopardized by the disclosure.
41. Further to the provisions and conditions mentioned above, the disclosure of any information related to an investigation or fact-finding, including the identity of the staff members or others involved, the subject-matter of the investigation or fact-finding, and even the very fact of the investigation or fact-finding, is restricted to a "need-to-know" standard, i.e. the information can be revealed by the investigative entity to specific individuals only if it is necessary to proceed with the investigation or fact-finding exercise. Consequently, the individuals to whom the information is released shall not disclose such information to anybody else without written authorization from the investigative entity.
42. No individual, the whistleblower included, should release information on, or reveal the existence of, any process or event governed by this bulletin.
43. Unauthorized disclosure by a staff member, consultant, expert or intern of confidential information related to an investigation or fact-finding constitutes misconduct which may result in disciplinary measures or appropriate action.

Section 8 - Entry into force

44. The present bulletin shall enter into force as of its date of issuance.