

Administrative Instruction

Revised disciplinary measures and procedures

Section 1 Purpose

1. The Executive Director, pursuant to section 4 of Executive Director's bulletin ITC/EDB/2010/08 of 16 November 2010, in line with the delegated authority in personnel and disciplinary matters and for the purpose of providing guidelines and instructions on the application of chapter X of the Staff Rules, Disciplinary Measures and Procedures and to outline the basic requirements of due process to be afforded a staff member against whom misconduct is alleged, hereby promulgates the following:

Section 2 Initial Investigation and Fact-Finding

2. Where there is reason to believe that a staff member has engaged in unsatisfactory conduct for which a disciplinary measure may be imposed, the Director, Division of Programme Support, shall request an appropriate Office/official to undertake an investigation.
3. United Nations Staff Rule 10.1 defines misconduct as: "Failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant may amount to misconduct and may lead to the institution of the disciplinary process and the imposition of disciplinary measures for misconduct."
4. Conduct for which disciplinary measures may be imposed includes, but is not limited to:
 - (a) Acts or omissions in conflict with the general obligations of staff members set forth in article 1 of the Staff Regulations and the Staff Rules and instructions implementing it;
 - (b) Unlawful acts (e.g., theft, fraud, possession or sale of illegal substances, smuggling) on or off United Nations/ITC premises, and whether or not the staff member was officially on duty at the time;
 - (c) Misrepresentation, forgery or false certification in connection with any United Nations/ITC claim or benefit, including failure to disclose a fact material to that claim or benefit;
 - (d) Assault upon, harassment of, or threats to other staff members;
 - (e) Misuse of United Nations/ITC property, equipment or files, including electronic files;
 - (f) Misuse of office, abuse of authority, breach of confidentiality, abuse of United Nations privileges and immunities;
 - (g) Acts or behaviour that would discredit the United Nations/ITC.

5. If the investigation results in sufficient evidence indicating that the staff member engaged in wrongdoing that could amount to misconduct, the Director, Division of Programme Support should immediately report the matter to the Executive Director, giving a full account of the facts that are known and attaching documentary evidence, such as cheques, invoices, administrative forms, signed written statements by witnesses and any other document or record relevant to the alleged misconduct.
6. If the conduct appears to be of such a nature and of such gravity that administrative leave may be warranted, the Director, Division of Programme Support shall make a recommendation to that effect to the Executive Director, giving reasons.
7. Pursuant to Staff Rule 10.4, a staff member may be placed on administrative leave by the Executive Director at any time pending an investigation until the completion of the disciplinary process.
8. As a general principle, administrative leave may be contemplated in cases if the conduct in question might pose a danger to other staff members or to the organization, or if there is a risk of evidence being destroyed or concealed and if redeployment is not feasible.
9. Administrative leave under Staff Rule 10.4 is normally with pay, unless the Executive Director decides that exceptional circumstances warrant administrative leave without pay. In both cases the administrative leave shall be without prejudice to the staff member's rights and shall not constitute a disciplinary measure.
10. If the Executive Director authorizes administrative leave with or without pay, the staff member shall be informed of the reason for the administrative leave and its probable duration and shall surrender his or her grounds pass. A staff member on administrative leave may not enter United Nations/ITC premises without first requesting permission. In the case of ITC premises, permission shall be requested from the Director, Division of Programme Support, or the Chief, Human Resources. The staff member shall be afforded the opportunity to enter, under escort, if necessary to prepare his or her defence or for any other valid reason.
11. Normally, the staff member placed on administrative leave shall not be precluded from remaining at, or returning to the duty station. Should the staff member placed on administrative leave request or, under exceptional circumstances, be requested to leave the duty station, he or she shall provide contact details so that he or she may be contacted during the investigation. The staff member placed on administrative leave has a duty to remain available for the investigation.
12. On the basis of the entire dossier and evidence transmitted by the Director, DPS to the Executive Director, the Executive Director, shall decide whether the matter should be pursued.
13. If the case is to be pursued, the Executive Director shall initiate disciplinary proceedings in accordance with the applicable Staff Regulations, Staff Rules and applicable administrative issuances, in line with ITC's delegation of authority in personnel and disciplinary matters. This includes the following steps:
 - (a) Inform the staff member in writing of the allegations and his/her right to respond;
 - (b) Provide him/her with a copy of the documentary evidence of the alleged misconduct;
 - (c) Notify the staff member of his/her right to seek the assistance of counsel in his/her defence through the Office of Staff Legal Assistance, or from outside counsel at his/her own expense, and offer information on how to obtain such assistance.
14. The staff member should be given a specified time to answer the allegations and produce countervailing evidence, if any. The amount of time allowed shall take account of the seriousness and complexity of the matter. If more time is required, it shall be granted upon the staff member's written request for an extension, giving cogent reasons why he or she is unable to comply with the deadline. If no response is submitted within the time-limit, the matter shall nevertheless proceed.
15. The entire dossier is then submitted to the Executive Director, except in those cases where she or he is the alleged offender, in which case the dossier should be submitted to the Assistant Secretary-General for Human Resources Management. It shall consist of the documentation listed under subparagraphs 13 (a), (b) and (c) above, the staff member's reply and the evidence, if any that he or she has produced.

Section 3
Procedures following investigation

16. Upon consideration of the entire dossier, the Executive Director, shall proceed as follows:
- (a) Decide that the disciplinary case should be closed, and immediately inform the staff member that the charges have been dropped and that no disciplinary action will be taken. The Executive Director may, however, decide to impose one or more of the non-disciplinary measures indicated in [staff rule 10.2 \(b\)\(i\)](#), and [\(ii\)](#), where appropriate; or
 - (b) Should the preponderance of the evidence indicate that misconduct has occurred, recommend the imposition of one or more disciplinary measures.
17. Decisions on recommendations for the imposition of disciplinary measures shall be taken by the Under-Secretary-General for Management on behalf of the Secretary-General. The Office of Legal Affairs shall review recommendations for dismissal of staff under [staff rule 10.2 \(a\) \(ix\)](#). Staff members shall be notified of a decision to impose a disciplinary measure by the Assistant Secretary-General for Human Resources Management.

Section 4
Application to the United Nations Dispute Tribunal

18. A staff member against whom a disciplinary or a non-disciplinary measure has been imposed following the conclusion of the disciplinary process is not required to request a management evaluation, and may submit an application to the United Nations Dispute Tribunal in accordance with chapter XI of the Staff Rules. The submission of an application to the United Nations Dispute Tribunal contesting a disciplinary or non-disciplinary measure imposed following the conclusion of the disciplinary process shall be made within 90 calendar days of receiving notification of the decision. The filing of such an application shall not have the effect of suspending the measure.

Section 5
Final Provisions

19. The present instruction shall enter into force on the date of its issuance.
20. The provision of the present instruction shall prevail over any inconsistent provisions contained in other administrative issuances currently in force.

(Signed) **Eva K. Murray**
Director, Division of Programme Support
