

**COLLECTIVE AGREEMENT
ON
CONFLICT PREVENTION AND RESOLUTION**

Between the International Labour Office and the ILO Staff Union

Annex I

Amendments to the Staff Regulations and related rules

*Text proposed for deletion appears in square brackets,
text proposed for inclusion appears in bold*

**Chapter 6
Advancement, appraisal and change of grade**

ARTICLE 6.4
Withholding of increment

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3. Where it has been decided that an annual increment shall be withheld, the official may, if he considers that the decision has been based on an erroneous evaluation of his performance or that the decision has been made for reasons unconnected with his performance, appeal within [eight days] **one month** of receipt of the Reports Board's decision to the [Director-General, who shall refer the matter to the Joint Committee for observations and report before deciding] **the Joint Advisory Appeals Board**.

ARTICLE 6.11
Transfer to duties and responsibilities attaching to a lower grade

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3. Before a decision to transfer an official to duties and responsibilities attaching to a lower grade is taken on the ground of unsatisfactory performance, a proposal to do so, stating the reasons for which it is made, shall be communicated in duplicate to the official who shall initial and return one copy and who shall be entitled to appeal to the [Joint Committee] **Joint Advisory Appeals Board** within [eight working days] **one month** of the receipt thereof on the ground that the proposal is made on the basis of an erroneous evaluation of his performance or for reasons unconnected therewith.

Chapter 10
Staff Relations and administrative bodies

[The following text replaces Article 10.5 concerning the Joint Committee]

ARTICLE 10.5
Joint Advisory Appeals Board

1. A Joint Advisory Appeals Board shall be established to assist the Director-General in making any final administrative decision:
 - concerning any grievance filed in accordance with article 13.3 of these Regulations;
 - concerning a proposal for the application of a sanction other than warning or reprimand under Chapter 12 of these Regulations;
 - concerning a proposal for termination for unsatisfactory services under articles 11.4 or 11.8 of these Regulations;
 - concerning a proposal for termination on reduction of staff under article 11.5 of these Regulations;
 - concerning a proposal for transfer to duties and responsibilities attached to a lower grade under article 6.11 of these Regulations;
 - concerning an appeal against withholding of increment under article 6.4 of these Regulations;
 - or as may be otherwise required under these Regulations or other relevant rules.

2. The Joint Advisory Appeals Board is composed of at least three Chairpersons appointed by the Director-General on the recommendation of the Joint Negotiating Committee, a group of at least three members nominated by the Office and a group of at least three members nominated by the Staff Union. For the purpose of these nominations and appointments, account shall be taken of the need to ensure gender, cultural, linguistic and professional diversity.

3. Where the circumstances of the case so require, the Office and the Staff Union may be requested to designate ad hoc members.

4. The following may be appointed as chairpersons: former ILO officials or serving or former officials of the United Nations or of the specialized agencies. Only serving ILO officials may be nominated as members or ad hoc members of the Joint Advisory Appeals Board and their participation shall be considered official duties.

5. On each occasion on which the functions assigned to the Joint Advisory Appeals Board require to be exercised, a Panel composed of a chairperson and one member from each group shall be set up.

6. The Joint Advisory Appeals Board shall be assisted by a Secretariat, the members of which shall be appointed by the Director-General in agreement with the Staff Union.

7. The procedure before the Joint Advisory Appeals Board shall be governed by the provisions of Annex IV to these Regulations.

Chapter 11 Cessation of service

ARTICLE 11.5 Termination on reduction of staff

(a) The Director-General, after consulting the [Administrative Committee] **Joint Negotiating Committee**, may terminate the appointment of an established official if the necessities of the service require a reduction of staff involving a reduction in the number of posts. An established official whose appointment is terminated under this paragraph shall, during the two years after the date on which its termination becomes effective, be offered appointment to any vacancy for which the Director-General, after consulting the [Administrative Committee] **Joint Negotiating Committee**, considers that he possesses the necessary qualifications.

....

(e) An official whose appointment it is proposed to terminate under paragraph (a) above shall be entitled to appeal to the [Joint Committee] **Joint Advisory Appeals Board** on the grounds that the termination is proposed without due consideration having been given to his competence, efficiency and official conduct, and to his length of service. Such an appeal, to be receivable must be submitted **to the Joint Advisory Appeals Board** not later than [eight days] **one month** after the official has received notice of the proposed termination.

ARTICLE 11.8 Termination for unsatisfactory services

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2. Before a decision to terminate the appointment of an official under this article is taken, a proposal to do so, stating the reasons for which it is made, shall be communicated in duplicate to the official, who shall initial and return one copy, and who shall be entitled to appeal to the [Joint Committee] **Joint Advisory Appeals Board** within [eight days] **one month** of receipt thereof on the ground that the proposal is made on the basis of an erroneous evaluation of his performance of for reasons unconnected therewith.

Chapter 12 Discipline

ARTICLE 12.2 Procedure for application of sanctions

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2. Subject to the provisions of article 12.8 of the Staff Regulations, in the case of any sanction other than warning or reprimand the **official shall have the right to refer the proposal** [shall then be communicated] to the [Joint Committee] **Joint Advisory Appeals Board within one month from its receipt** [for observation and report to the Director-General]. Reference to the [Joint Committee] **Joint Advisory Appeals Board** may be waived with the agreement of the official concerned.

Chapter 13

[The following text replaces Chapter 13 concerning the procedure for the resolution of grievances]

Conflict resolution

ARTICLE 13.1 Informal conflict resolution

1. An official¹ who considers that s/he has been treated in a manner incompatible with her/his terms and conditions of employment, including the right to work in a place that is free of sexual harassment, should attempt to have the matter solved through dialogue. To this end, the official may at any time, without prejudice to the right to file a grievance in accordance with article 13.2.1 or article 13.2.2 within the time limit specified therein:
 - (a) rely on the mediation or facilitation mechanisms established by the Director-General on the recommendation of the Joint Negotiating Committee;
 - (b) request the intervention of the Human Resources Development Department or a higher level chief;
 - (c) request the assistance of any official, former official or the Staff Union.
2. An official who faces any other work-related problem may, at any time, resort to the mechanisms referred to in paragraph 1 above with a view to its informal settlement.
3. There shall be no formal record of the informal processes referred to above.

¹ For the purpose of Chapter XIII, the term « official » does not comprise officials in the executive directorate level.

ARTICLE 13.2
Grievances

1. An official who wishes to file a grievance on the grounds that s/he has been treated in a manner incompatible with her/his terms and conditions of employment shall, except as may be otherwise provided in these Regulations or other relevant rules², request the Human Resources Development Department to review the matter within six months of the treatment complained of. The procedure for the examination of general grievances related to the terms and conditions of employment is governed by article 13.3.
2. An official who wishes to file a grievance on the grounds that s/he has been subjected to sexual harassment shall request the Human Resources Development Department to review the matter within six months of the conduct complained of. The procedure for the examination of sexual harassment grievances is governed by article 13.4.

ARTICLE 13.3
Administrative resolution of general grievances
related to the terms and conditions of employment

1. The Human Resources Development Department shall review any grievance under article 13.2.1 and notify the official of a reasoned decision within three months of the receipt of the grievance. Where the Human Resources Development Department and the official agree that the matter may still be solved through informal conflict resolution, this time limit may be suspended in writing up to three months. In the event of such a suspension, the official shall confirm in writing to the Human Resources Development Department, no later than the expiration of the agreed suspension, whether s/he still wishes the matter to be formally reviewed and decided upon.
2. If the official disagrees with a decision under paragraph 1 above or in the absence of an express decision within the time allowed under the same provision, s/he shall be entitled to file a grievance with the Joint Advisory Appeals Board within one month of its notification or the expiration of the time allowed in the absence of a decision.
3. Should an official disagree with a decision or proposed decision in respect of which special procedures² apply, s/he shall be entitled to refer the matter to the Joint Advisory Appeals Board to the extent and within the time limits provided for in the relevant procedure.
4. The Director-General shall take a final decision within two months of the submission of the report by the Joint Advisory Appeals Board and communicate it to the official together with a copy of the report. A copy of the decision shall also be communicated to the Board. In the absence of an express decision within this deadline, the

² Special procedures apply to compensation claims (Annex II) and the review of performance appraisals (chapter 6) as well as for appeals in respect of selection and recruitment (Annex I, paragraph 17), discipline (chapter 12), job grading (relevant administrative circular), termination for unsatisfactory services (articles 11.4 and 11.8), termination on reduction of staff (article 11.5), and withholding of increment (art. 6.4) and transfer to a lower grade (art. 6.11).

Board shall provide the official and the Human Resources Development Department with a copy of its report and the official shall be entitled to imply an acceptance of the recommendations contained in the report.

ARTICLE 13.4

Administrative resolution of sexual harassment grievances

1. Sexual harassment is defined as any unwanted conduct of a sexual nature in a workplace or in connection with work that, in the reasonable perception of an official, is used as a basis for a decision which affects his/her employment or professional situation, or creates an intimidating, hostile or humiliating work environment.

2. The Human Resources Development Department shall review any sexual harassment grievance under article 13.2.2 within one month and notify the official of the measures it intends to apply, including, where appropriate, referral to independent investigation or any interim measures.

3. Should the official disagree with the proposed action or in the absence of any proposal, the grievance shall be submitted to independent investigation within one month of the notification of the proposed action or the expiration of the time allowed for the review.

4. There shall be at least three officials trained as investigators, appointed by the Director-General on the recommendation of the Joint Negotiating Committee. The investigators shall designate among themselves a coordinator, responsible for assigning any case to the investigator or the investigators best suited to conduct the investigation, having regard to their availability and to the specific skills that may be required in each case.

5. The assignment of a case to an investigator shall be notified by the coordinator to the official, the Human Resources Development Department and other parties directly involved, who shall have one week to comment on the suitability of the investigator or investigators. The coordinator shall have one week from the receipt of any comment from the above mentioned parties to confirm or modify the selection of the investigator. This decision is not subject to appeal.

6. The investigator shall conduct any enquiry necessary to elucidate the case and shall draw up a report comprising a summary of the allegations, the investigative measures undertaken, the findings and suggestions where appropriate. This report shall be communicated to the Director-General within three months of the assignment of the case, except where, in the investigator's opinion, exceptional circumstances require additional time. When communicating the report to the Director-General, the investigator shall notify the parties that the investigation has been concluded.

7. If in the course of the investigation it becomes apparent that the conduct complained of does not constitute sexual harassment but that it may constitute treatment incompatible with other terms and conditions of employment of the official, the investigator shall refer the matter to the Human Resources Development Department for

consideration under article 13.3.1 and inform the official having filed the grievance accordingly.

8. The Director-General shall take a decision within two months of the communication of the investigator's report. The decision shall be transmitted to the official having filed the grievance and to any other party directly implicated together with a copy of the report, subject to any privileged information necessary to protect third parties. In the absence of an express decision within this deadline, the investigator shall provide the official having filed the grievance with a copy of the report subject to the restrictions noted above, and the official shall be entitled to imply acceptance of the findings as to the facts and rejection of the grievance.

ARTICLE 13.5 Judicial appeals

1. An official shall be entitled to file a complaint against an express or implied decision under articles 13.3.4 or 13.4.8 with the Administrative Tribunal of the International Labour Organization.

2. The Director-General may, in agreement with the official, exempt the latter from the obligation to exhaust internal procedures by authorizing him/her to challenge a decision directly before the Administrative Tribunal.

Annex I Recruitment procedure

Grievances

17. An official who has requested feedback from the responsible chief in accordance with paragraph 13 above [may request the advice of the facilitators or the Ombudsperson provided for under the Procedure for the Resolution of Grievances. If the official] and **who** is not satisfied with the written response provided by the responsible chief under paragraph 14 above, [he or she] may submit a grievance to the **Joint Advisory Appeals Board** [provided for in the Procedure for the Resolution of Grievances, where he or she alleges] **within one month from the receipt of the written response on grounds** that the decision was based on a procedural flaw or unfair treatment.

Annex IV

[The following text replaces Annex IV concerning the review procedure and procedure of the Joint Committee]

Procedure of the Joint Advisory Appeals Board

1. Any case brought to the Joint Advisory Appeals Board shall be filed with its Secretary by means of the form prescribed to that effect, in four copies, in any of the three official languages of the Office. Any communication relating to the case addressed to the official shall be made the language used by the official or in any other official language that s/he is able to understand. The official may appoint a representative, who shall be a former or serving staff member of the Office, the United Nations or a specialized agency, or a Staff Union representative, to act on her/his behalf during the procedure before the Board.
2. The Secretary shall verify that the form and documents appended to it meet the necessary requirements and shall call upon the official or the official's representative to correct it, if necessary, within one week.
3. When the above requirements are met, the Secretary shall forward one copy of the official's submission to the Director of the Human Resources Development Department. The latter shall appoint a representative, who shall be a former or serving staff member of the Office, the United Nations or a specialized agency, to act on behalf of the Human Resources Development Department during the procedure before the Board.
4. Neither party shall have the right to external legal representation before the Board.
5. The Human Resources Development Department shall dispatch its comments on the case in four copies to the Secretary of the Board within one month of receipt of notice from the Secretary.
6. During the completion of the written submissions, the Secretary shall coordinate with the chairpersons and members of the Board to determine the composition of the Panel that will deal with the case, having considered any objection raised by the official or the Human Resources Development Department as to the participation of any particular person in the Panel.
7. After the composition of the Panel has been determined, the Secretary shall forward to the chairperson and members of the Panel the written submissions of the parties.
8. The Panel shall hold as soon as possible a preliminary meeting to determine:
 - (a) whether the case is clearly irreceivable or devoid of merit;
 - (b) whether the case is to be dealt with as a matter of urgency;
 - (c) the need for any further written submissions or enquiry;
 - (d) the disclosure of any privileged document requested by either party and the time allowed for the parties to comment on any document so disclosed;
 - (e) the need for the appearance of the parties or any witnesses;

- (f) the date of any hearing so decided.
9. If the Panel unanimously considers that the case is clearly irreceivable or devoid of merit, it shall address without delay a summary report to that effect to the Director-General. Such report shall contain:
- (a) a summary of the proceedings;
 - (b) the outcomes requested by the official and the Office;
 - (c) the grounds on which the Panel considers the case to be clearly irreceivable or devoid of merit;
 - (d) the signature of the Chairperson and members of the Panel and the date.
10. In all other cases, the Secretary shall notify the parties of the date of any hearings decided by the Panel or an indication as to the time frame in which the Panel is likely to examine the case.
11. Where a Panel considers that exceptional circumstances could warrant the adoption of interim measures pending the disposal of a grievance, it will inform the Director-General accordingly.
12. Any hearing shall be held in private at the time decided by the Panel and shall be presided over by its Chairperson. Hearings may be attended by the official and his/her representative, the representative of the Human Resources Development Department, witnesses called by the Panel and the members of the Board's Secretariat. The representatives of the official and the Human Resources Development Department may each attend hearings accompanied by one other person meeting the conditions specified respectively in paragraphs 1 and 3 above. Participation in hearings shall be considered official duties.
13. The Panel shall deliberate in private.
14. The Panel shall address its report to the Director-General within three months of the conclusion of the written submissions by the parties, except where exceptional circumstances require a longer time frame. Such report shall contain:
- (a) a summary of the proceedings;
 - (b) the outcomes requested by the official and the Office;
 - (c) a summary of the arguments put forward by each party;
 - (d) a statement of established relevant facts, including reference to the document or witness statement on which the findings are based;
 - (e) reference to any interim communication under paragraph 11 above;
 - (f) its recommendations on each of the conclusions of the parties, including the grounds;
 - (g) an indication as to whether the recommendations are unanimous or by majority, as well as any minority views that may be added;
 - (h) the signature of the Chairperson and members of the Panel and the date.
15. The Secretary of the Board shall notify the official of the date of issuance of the report under paragraphs 9 or 14 above.

16. Where the Panel's report is written in a language that the official is not able to understand, the Office shall arrange for its translation into the language of the grievance on time for its communication to the official in accordance with article 13.3.4 of these Regulations.

17. All proceedings of the Board are confidential. Any breach of confidentiality shall be considered serious misconduct.

18. The expenses necessary for the proceedings of Joint Advisory Appeals Board shall be borne by the Office.

19. The Joint Advisory Appeals Board shall report annually to the Joint Negotiating Committee on activities undertaken and general trends of its work.

Administrative circular, Series 6, No. 639
Job Grading Procedure

Appeal under the grievance procedure

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22. However, a staff member may file a grievance with the **Joint Advisory Appeals Board** within [30 days] **one month** from the notification of the decision or from the date when the decision was due on grounds that the decision was flawed by a material breach of a rule of procedure or unfair treatment. The procedure for an appeal to the **Joint Advisory Appeals Board** is governed by [Articles 13.2.2 and 13.2.3] **Annex IV** of the Staff Regulations.

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