



Governing Body

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Programme, Financial and Administrative Section

PFA

Personnel Segment

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Amendments to the Staff Regulations

Purpose of the document

In this document, the Governing Body is invited to approve amendments to Chapter XII (Discipline) of the Staff Regulations (see the draft decision in paragraph 5).

Relevant strategic objective: None.

Main relevant outcome: Enabling outcome B: Effective and efficient governance of the Organization.

Policy implications: None.

Legal implications: Amendments to the Staff Regulations.

Financial implications: None.

Follow-up action required: Amendments to the Staff Regulations.

Author unit: Human Resources Development Department (HRD).

Related documents: None.

► Amendments to Chapter XII of the Staff Regulations concerning the disciplinary framework

1. Further to recommendations from the ILO Committee on Accountability and the Joint Advisory Appeals Board and in accordance with recent comments of the ILO Administrative Tribunal concerning the limited range of disciplinary measures available and the need to implement a progressive disciplinary policy, the Office has reviewed the provisions of Chapter XII of the Staff Regulations, entitled "Discipline". The review included consultations with the Staff Union and also took into account the rules and practices of other international organizations of the United Nations common system.
2. The Office has a three-pronged approach to addressing misconduct: prevention, enforcement and remedial action. This recognizes the importance of promoting and maintaining the highest standards of conduct among staff. It also ensures that disciplinary proceedings are transparent, efficient and effective and that disciplinary measures are proportionate and progressive. Wherever possible and appropriate, efforts are made to correct misconduct through training and education and other remedial action. The proposed amendments to Chapter XII seek primarily to clarify the disciplinary process and to expand the list of available disciplinary measures. They also serve as a means of promoting accountability among all staff members at all levels, driving organizational performance and improving on the delivery of results.
3. The following are the main modifications proposed under the revision of Chapter XII of the Staff Regulations:
 - (a) The establishment of an advisory body, the Disciplinary Committee, comprised of senior officials nominated by the Director-General, which will assist the Director-General in determining whether misconduct has occurred and also advising on the disciplinary measure or measures to be applied. This is intended to ensure that a more diverse range of perspectives is considered in the assessment of the evidence and of the comparative gravity of the misconduct under review and to help ensure consistency in the application of disciplinary measures.
 - (b) The expansion of the list of available disciplinary measures to include sanctions with an immediate and direct impact – financial or otherwise – on any official found guilty of misconduct. This brings the ILO into line with the provisions of other organizations of the United Nations common system and addresses the recommendations referred to in paragraph 1 above.
 - (c) The addition of a provision explicitly providing for the recovery of any losses arising from acts of misconduct of staff members in line with Rule 13.20 of the Financial Rules.
 - (d) The addition of provisions on administrative measures which shall not be considered to be of a disciplinary nature, but which may complement disciplinary sanctions to support better remediation of misconduct and to minimize the likelihood of recurrence.
 - (e) The removal of the difference in the procedure for the application of the sanctions of discharge and summary dismissal between established officials and officials employed under a fixed-term appointment, which is a source of confusion.

4. The proposed amendments to Chapter XII and the consequential amendments to articles 4.2, 9.7 and 10.5 of the Staff Regulations are set out in the appendix.

► Draft decision

5. **The Governing Body approved the amendments to Chapter XII of the Staff Regulations relating to discipline, as set out in the appendix to document GB.349/PFA/8, with immediate effect.**

► Appendix

Chapter XII. Discipline

Article 12.1

Misconduct

1. The Director-General may impose disciplinary measures on an official who is found to have engaged in misconduct.
2. For the purposes of this chapter, misconduct shall mean the failure by an official to comply with the Staff Regulations, the Financial Regulations, the Financial Rules or other relevant internal rules and procedures or to observe the standards of conduct required of an international civil servant.
3. Any disciplinary measure imposed on an official shall be proportionate to the nature and gravity of the misconduct.
4. No disciplinary measure shall be applied to an official without giving the official an opportunity to defend themselves.
5. An official who is found to have engaged in misconduct may be required to reimburse the Organization for any financial losses suffered by it as a direct result of the official's misconduct.
6. An official whose conduct is a source of concern may be issued, by the Director of the Human Resources Development Department or the director of department or office concerned, with an oral or written warning informing them of the concerns and advising them that, if their conduct does not improve, disciplinary proceedings will be initiated against them. Such a warning shall be recorded on the official's personal file but shall not be considered as a formal disciplinary measure. A written warning will be removed from the official's personal file after two years if no disciplinary measures are applied to the official during that time.

Article 12.2

Disciplinary Committee

1. The Director-General shall establish a Disciplinary Committee to assist during disciplinary proceedings in accordance with article 12.3 of these Regulations.
2. The Disciplinary Committee shall be composed of four members or their substitutes, who are nominated by the Director-General and all of whom are officials of grade D.1 or higher. The Committee shall elect a chairperson and establish its own procedure. The Legal Adviser and the Director of the Human Resources Development Department shall be ex officio members of the Committee with an advisory role. The members of the Disciplinary Committee may not at the same time be members of the Joint Advisory Appeals Board or of any internal body whose mandate may have an impact on the employment situation of the official concerned. All members of the Disciplinary Committee shall be bound by strict standards of confidentiality during and after the disciplinary proceedings.
3. A representative of the Human Resources Development Department designated by the Director-General shall serve as secretary of the Disciplinary Committee.

4. The Chairperson of the Disciplinary Committee may request information from any resource person whose expertise is deemed relevant, such as (but not limited to) external investigators or representatives of the Office of Internal Audit and Oversight.
5. The Disciplinary Committee shall:
 - (a) assess whether misconduct has occurred, having regard to all the available documentation;
 - (b) if it is satisfied that misconduct has occurred, determine its seriousness, in light of any aggravating or mitigating circumstances; and
 - (c) deliver a reasoned opinion to the Director-General in the form of a report, setting out the Disciplinary Committee's recommendation as to any proposed disciplinary measure or measures that should be applied to the official concerned.

Article 12.3

Procedure for the application of disciplinary measures

1. All disciplinary measures shall be imposed under the authority of the Director-General.
2. Officials who are subject to disciplinary proceedings may be assisted by a representative of the Staff Union or any other member of staff or former member of staff who is not a party to the proceedings.
3. When informed of facts liable to give rise to disciplinary action, the Director-General may decide to apply the disciplinary measure of a written censure without consulting the Disciplinary Committee. Should a more severe disciplinary measure be considered, the Director-General shall refer the case promptly to the Disciplinary Committee.
4. When a case is referred to the Disciplinary Committee, a letter of charges shall be prepared by the Human Resources Development Department in consultation with the Office of the Legal Adviser and shall be communicated in duplicate to the official concerned together with all supporting documentation. The official shall initial and return to the Human Resources Development Department one copy of the letter within eight days of receiving it, adding to it any observations they may wish to make. The Human Resources Development Department shall forward the letter of charges together with the official's observations, if any, to the secretary of the Disciplinary Committee.
5. Except as otherwise decided by it, the Disciplinary Committee shall base its deliberations, without a hearing, on all available documentation, including the letter of charges and the official's observations, if any, and any advice from the ex officio members and other resource persons.
6. The Disciplinary Committee shall transmit its report and recommendations to the Director-General, together with the official's observations, within 20 working days of the date on which the official submitted their observations, provided that this time limit is commensurate with the complexity of the case.
7. Within ten working days of receiving the report of the Disciplinary Committee, the Director-General shall notify the official concerned of the proposed disciplinary measure, if any. The official shall initial and return one copy of the notification within eight days of receiving it, adding to it any observations the official may wish to make.

8. In the case of any disciplinary measure other than a written censure the official shall have the right to refer the matter to the Joint Advisory Appeals Board within one month of receiving the notification. Referral to the Joint Advisory Appeals Board may be waived with the agreement of the official concerned.
9. The decision to apply a disciplinary measure shall be communicated in duplicate to the official concerned, who shall initial and return one copy. If the official has referred the matter to the Joint Advisory Appeals Board, the decision to apply a disciplinary measure will be taken after the Board has made its recommendations. The official concerned shall be entitled to file a complaint against the decision to apply a disciplinary measure with the Administrative Tribunal of the International Labour Organization.
10. All information communicated or obtained at any stage of the disciplinary proceedings, or otherwise related to these proceedings, shall be considered strictly confidential, without prejudice to:
 - (a) the exchange of information among officials discharging statutory responsibilities under these Regulations;
 - (b) the exchange of information for the purposes of assisting the official in the disciplinary proceedings;
 - (c) the reporting requirements of the Organization.

Article 12.4

Disciplinary measures

Disciplinary measures may take the form of one or more of the following:

- a written censure;
- withholding of an increment for a specified period;
- loss of one or more steps in grade;
- suspension without salary;
- a fine;
- demotion;
- dismissal;
- summary dismissal.

Article 12.5

Written censure

1. An official who is issued with a written censure shall initial and return one copy of it, adding to it any observations they may wish to make.
2. Three months after the application of the written censure, the Director-General may require the official's responsible chief to report on the official's conduct in the light of the censure. Such a report shall be communicated to the official, who shall initial and return it, adding to it any observations they may wish to make.

3. A written censure shall be removed from the official's personal file after three years if during that time no further disciplinary measures are applied to the official.

Article 12.6

Withholding of an increment for a specified period

The withholding of an increment shall mean that the official is not awarded an increment for a specified number of years. An increment which has been withheld in accordance with this provision may not be subsequently restored.

Article 12.7

Loss of one or more steps in grade

In the case of the loss of one or more steps, the official's level within the same grade shall be reduced by the number of steps specified in the disciplinary measure.

Article 12.8

Suspension without salary

An official who is suspended without salary shall not be permitted to serve for a specified period of time, which may not exceed three months. Such suspension shall be treated as special leave without salary in accordance with article 7.7(b) of the Staff Regulations. Family allowances paid under article 3.12 and 3.13 of the Staff Regulations and contributions to the Staff Health Insurance Fund in respect of the official concerned and their dependants will be maintained during the period of the suspension.

Article 12.9

Fine

A fine may not exceed three months of net salary, including post adjustment where applicable.

Article 12.10

Demotion

An official who is demoted will be placed in the grade immediately below their current grade, at the same step. Demotion may involve a transfer to duties and responsibilities attaching to such lower grade. The Director-General may specify a period of time during which the official will not be eligible for promotion.

Article 12.11

Dismissal

An official who is dismissed shall be given one month of notice or compensation in lieu of notice. The Director-General may grant such official an indemnity not exceeding one half of that payable under article 11.6 of the Staff Regulations.

Article 12.12

Summary dismissal

An official who is summarily dismissed shall not be entitled to any notice of termination, nor to a termination indemnity or a repatriation grant in accordance with article 11.15, paragraph (a), and shall be banned from any future employment with the Organization.

Article 12.13

Administrative leave

1. If the Director-General considers that the continuance in service of the official concerned pending the outcome of an investigation or until the completion of any disciplinary proceedings would prejudice the interests of the Office, the official may be placed on administrative leave. Such action shall be without prejudice to the rights of the official.
2. Administrative leave may be with or without salary, provided that an official shall only be placed on administrative leave without salary in cases which appear to call for the disciplinary measure of summary dismissal or in exceptional circumstances. If the official is not summarily dismissed, any salary withheld shall be restored without delay. If the official is summarily dismissed, the dismissal may be made effective as from the date on which the official was placed on administrative leave. For the purposes of this article, "salary" shall mean salary and allowances, except for family allowances paid under article 3.12 and 3.13 of the Staff Regulations and contributions to the Staff Health Insurance Fund in respect of the official concerned and their dependants, which will be maintained during the period of the administrative leave.
3. An official placed on administrative leave shall be provided with a written statement containing the reason or reasons for such leave, their status during the leave, and its probable duration. The statement may also specify the conditions under which the official may have access to the Office premises, equipment and documents.
4. Placement on administrative leave under this article shall not be considered as a disciplinary measure under article 12.4.

* * *

Article 4.2

Filling of vacancies

(g) In filling any vacancy account shall be taken, in the following order, of:

...

- (4) if the Director-General and the Staff Union agree, applications from former officials other than those who have been ~~discharged~~ dismissed or summarily dismissed;

Article 9.7

Expenses upon termination

...

- (c) Expenses under this article shall not normally be paid to an official whose appointment is terminated in accordance with article ~~12.7 or article 12.8, paragraph 2 (Summary dismissal of fixed-term officials)~~ 12.12 (Summary dismissal), nor to an official who resigns before he completes one year of service. ...

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 a proposal for the application of a sanction other than written censure ~~warning or reprimand~~ under Chapter XII of these Regulations;