

ANNEX B

JOINT GRIEVANCE PANEL PROCEDURES

1. If a staff member or temporary employee considers that informal resolution is inappropriate or unsuccessful, he or she may initiate the formal complaint procedure by submitting a written complaint to the Secretary of the Joint Grievance Panel to begin the formal grievance process.

The Allegation/s

2. The complaint shall describe the specific act(s) or conduct that are the subject of the allegation(s), and the date(s), time(s), location(s) and circumstances of the alleged acts, along with any other information, documents, papers, memoranda, e-mails or physical evidence which tend to support or are otherwise relevant to the allegation. The complaint should identify the alleged perpetrator, any alleged witnesses and anyone to whom the alleged improper behavior was mentioned at the time. It should also detail any efforts at informal resolution. All complaints must be signed and dated and no anonymous complaints shall be accepted.

3. The complaint must be received within six (6) weeks from the date of the occurrence of the last incident of the alleged improper behavior.

Initial Screening

4. Within ten (10) working days from the receipt of the complaint, the Secretary of the Panel will check whether the complaint meets the various criteria including procedural requirements for it to be considered by the Panel before forwarding the complaint to the Panel, e.g. that it is within the set time limits, that it is not anonymous, that the alleged perpetrator is identified, etc. If necessary, the Secretary will revert to the complainant with a request for the complainant to revise and resubmit the complaint.

Preliminary Assessment

5. Upon receipt of the completed formal complaint from the Secretary, a determination by the Panel shall be made within ten (10) working days as to whether the complaint is admissible. For this purpose, the complainant may be interviewed by the Panel in order to, where relevant, clarify the allegation; ensure that the allegation bears on related events; ensure that all available evidence is submitted; and consider the possibility of informal resolution in the event that this has not been attempted before.

6. The Panel may direct the complainant to amend or supplement the complaint within ten (10) working days: failure to comply with the Panel's directions may entail dismissal of the complaint. The Panel may in appropriate circumstances also direct the complainant to pursue informal resolution first.

7. If the Panel considers a grievance to be clearly irreceivable or devoid of merit, the Panel may dismiss it summarily as clearly irreceivable or devoid of merit; in the alternative, the Panel shall direct that the procedure for the consideration of the grievance prescribed below be followed. The Panel shall notify the complainant and HRMD of its decision and the Secretary shall file the decision.

8. When the Panel considers it necessary, the Chairperson shall coordinate with the Director, HRMD, with a view to interim measures being taken by the Administration. The Director, HRMD, in his or her discretion, may take immediate interim measures consistent with the Staff Regulations and Staff Rules, to separate the alleged perpetrator(s) and the complainant physically or hierarchically, pending the outcome of consideration of the case without in any way prejudging the outcome of any investigation, Panel review or possible disciplinary proceedings. This may include the identification of different duties for one or both of the staff members or temporary employees concerned.

Chairperson's duties

9. The Chairperson's duties include the preliminary assessment of the grievance with the other members of the Panel, oversight and coordination of the work of the Panel, assignment of Panel members in the event of unavailability or actual or perceived conflict of interest. The Chairperson also serves as a member of the Panel examining the complaint.

Consideration of Grievance

10. If, on the basis of the initial screening and preliminary assessment, the case is to be pursued, the Secretary shall forward a copy of the complaint to the alleged perpetrator. The alleged perpetrator shall be given ten (10) working days to file with the Panel a response to the allegations and provide any available evidence disproving or tending to disprove the allegations or otherwise relevant to the allegations. If the alleged perpetrator does not respond to a complaint within the time prescribed, the proceeding will, nevertheless, proceed. However, when circumstances so warrant, the Chairperson shall have the authority to grant an extension of the said time period of up to ten (10) additional working days to the alleged perpetrator.

Investigation

11. The Panel will forward the documentation to the Internal Audit and Oversight Division (IAOD) to proceed with the investigation of the complaint. The IAOD shall be subject to the same code of confidentiality as the Panel in all matters pertaining to the investigation. The complaint must normally be initiated, completed and the report submitted to the Panel within thirty (30) working days from the receipt of the alleged perpetrator's response by the Panel, or upon expiry of the given time limit of ten (10) working days or of the authorized extension (see paragraph 10 above). The Panel shall forward to the IAOD the documentation by the end of the next working day after the Panel receives the alleged perpetrator's response. In the case where exceptional circumstances warrant an extension of the period of thirty (30) working days, the Chairperson of the Panel, in consultation with the IAOD, may submit such a request to the Director General.

12. The purpose of the investigation by the IAOD, which shall be undertaken by an investigator in the IAOD ("Investigator") is to establish the facts, including the time, sequence and nature of the occurrences relevant to the complaint, whether such facts tend to corroborate or disprove the allegations.

The Panel's Evaluation

13. The Investigator will submit his or her findings in a confidential report to the Panel through the Director, IAOD. The Panel will consider the findings of the report, on the basis of which the Panel will submit its recommendations to the Director General. The report submitted by the Panel to the Director General, which is advisory in nature, will comprise:

- (a) a summary of the arguments made by the parties;
- (b) a brief description of the procedure followed by the Panel;
- (c) a detailed evaluation of the facts of the case and the claims of the parties;
- (d) its findings as to whether or not the allegations are borne out;
- (e) recommendation(s) on measures required, if any, including the initiation of disciplinary proceedings.

14. In making recommendations, the Panel shall apply the standard burden of proof: the burden of proof of an assertion shall accordingly be on the staff members or temporary employee making the assertion, who shall prove his or her case on a balance of probabilities. The above mentioned recommendations (paragraph 18(v)) in the report of the Panel may include:

- (a) to close the case, should:
 - (i) the matter have been resolved by the Panel directly, or with the collaboration of other parties;
 - (ii) the facts reported in the investigation appear to indicate that no misconduct has occurred; in such an event, the Panel may also recommend steps to be taken, and by whom such steps should be taken, and in what time period, to protect the reputation of persons affected by the complaint, as well as the reputation and position of persons making complaints in good faith; or
 - (iii) the facts reported in the investigation appear to indicate that no misconduct has occurred and that the complaint was considered frivolous in nature;
- (b) to refer the matter to the Joint Advisory Committee, in accordance with WIPO Staff Regulation 10.1 and in accordance with Staff Regulation 8.2, should:
 - (i) no misconduct be found to have occurred, and the facts reported in the investigation appear to indicate that the complainant has intentionally or recklessly made false statements in connection with the submission of a grievance to the Panel, or has otherwise submitted the grievance in bad faith;
 - (ii) the facts reported in the investigation indicate that misconduct has occurred and should the said misconduct appear to call for disciplinary proceedings to be initiated.
 - (c) to institute other sanctions which are not subject to proceedings of the Joint Advisory Committee, or measures which are not deemed to be disciplinary measures, in accordance with the WIPO Staff Regulations and Staff Rules, e.g., such as moving the staff

member or temporary employee to another office location; or the transfer of one or other of the staff member/temporary employee(s) concerned to other services in accordance with WIPO Staff Regulation 4.3(c).

15. The members of the Panel shall decide on the basis of consensus whenever possible and otherwise by majority vote. In the event that one of the members of the Panel dissents from some or all of its findings, the dissenting opinion shall be included in the report.

16. A copy of the report will be forwarded to the Director, HRMD. The complainant and the alleged perpetrator(s) shall receive a copy of the report and will be informed in writing of the decision of the Director General and of the action, if any, which is to follow.

Withdrawal of complaint, admission of allegations

17. If a complainant wishes to withdraw a complaint at any stage before the Director General takes a final decision, and the alleged perpetrator agrees to the withdrawal, the Panel may recommend to the Director General that the withdrawal of the complaint be accepted. Similarly, the alleged perpetrator may admit to any or all of the allegations and the Panel may proceed accordingly, including with respect to finding that the acts occurred as alleged and admitted and with respect to recommending to the Director General what action should be taken.

[End of Annex B]