

2020-UNAT-1006, Suleiman

UNAT Held or UNDT Pronouncements

UNAT held that UNRWA DT did not err in law or fact in finding that the facts on which the disciplinary measure was based had been established. UNAT agreed with UNRWA DT that the preponderance of the evidence showed that the Appellant hit a student forcefully on the back during the 25 October 2016 distribution of school bags. UNAT held that UNRWA DT did not err in relying on the testimony of the Donor Relations Officer (DRO), which is of high value. UNAT noted that he was a neutral witness without any personal interest in the matter and he did not know the Appellant before. UNAT held that UNRWA DT did not err in accepting the statements of the pupils as corroborating evidence. UNAT held that the Appellant could not, for the first time on appeal, allege that the four witnesses were first-graders and therefore incompetent witnesses. UNAT disagreed with the Appellant that the evidence was implausible given his unblemished professional record and the fact that no complaint had been filed. UNAT held that UNRWA DT did not err when it held that the sanction imposed was proportionate to the offense. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to impose upon him a disciplinary measure of a letter of censure and a fine equivalent to one month's base salary for using corporal punishment on a student. UNRWA DT dismissed the application and upheld the disciplinary measure.

Legal Principle(s)

In disciplinary cases, the Tribunals will examine the following: (i) whether the facts on which the disciplinary measure is based have been established (where termination is the sanction imposed, the facts must be established by clear and

convincing evidence; in all other cases preponderance of the evidence is sufficient); (ii) whether the established facts amount to misconduct; (iii) whether the sanction is proportionate to the offence; and (iv) whether the staff member's due process rights were respected. Children may be relied upon as witnesses. There is a broad discretion of the Administration with regards to the imposition of disciplinary measures.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered; No relief ordered.

Full judgment

[Full judgment](#)

Applicants/Appellants

Suleiman

Entity

UNRWA

Case Number(s)

2019-1321

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Mar 2020

President Judge

Judge Knierim

Language of Judgment

Arabic

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Evidence

Applicable Law

Laws of other entities (rules, regulations etc.)

- UNRWA General Staff Circular No.01/2013

Other UN issuances (guidelines, policies etc.)

- UNRWA Education Technical Instruction No.1/08

Related Judgments and Orders

2019-UNAT-917

2019-UNAT-913