

WIPO



WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

General distribution

OFFICE INSTRUCTION

No. 31/2009

THE WIPO JOINT GRIEVANCE PANEL

1. The purpose of the present Office Instruction is to amend with immediate effect Office Instruction No. 16/2006 (Corr.), entitled, “The WIPO Joint Grievance Panel”, which was issued to inform staff members and temporary employees of new procedures established to resolve conflicts and grievances that may arise in the workplace. The WIPO policy on the prevention of harassment and the resolution of all forms of grievances includes the establishment of a Joint Grievance Panel to examine and make recommendations on formal complaints of grievances. The amendments mainly consist of references to new Office Instructions and terminology linked to WIPO’s new Performance Management and Development System (PMSDS). As compared to Office Instruction No. 16/2006 (Corr.), small changes have been made to paragraphs 1, 2, 9 and 20 of the Office Instruction itself, and to paragraph 5 of Annex A. All other paragraphs remain the same. None of these changes affect the substance of the procedures established pursuant to Office Instruction 16/2006 (Corr.).

2. This Office Instruction shall, as before, apply to staff members and temporary personnel¹ employed by WIPO with immediate effect.

3. The prevention of conflict is closely connected to the conduct of, and working relationships between and among, colleagues. In this regard, the Organization places the highest expectations on its staff members and temporary employees and their standards of conduct as international civil servants. Pursuant to these standards, staff members and temporary employees must respect all persons equally, without distinction, in order to foster the professional climate and collegial environment which is in the interest of the Organization and of benefit to all.

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¹ Short-term General Service employees, employees administered under the Agreement with the AITC and AIIC, Consultants and holders of Special Labour Contracts

4. A grievance can be defined as a cause of distress felt to afford reason for complaint. Underlying the grievance normally is conflict, which can be defined as any opposition or difference of wishes, needs, statements, arguments, actions or principles between two or more staff members/temporary employees, or between staff members/temporary employees and the Organization. Conflict is a natural yet also manageable phenomenon that can occur in any organization and that can and should be handled professionally and in good faith. An unresolved conflict may give rise to a grievance, may create a hostile environment, and particular importance is attached to its prevention in the workplace. However, situations of conflict and tensions do not automatically, nor necessarily, qualify as harassment. It is in the interest of all parties that any contentious issue be resolved at an early stage, without the need to resort to recourse procedures to clarify or enforce rights and obligations.

5. The Staff Development Section, HRMD, will organize courses in communication, the handling and resolution of conflict, problem-solving, collaborated negotiation, teamwork and mediation, which are of particular importance for management, as the requisite skills are considered essential in the recruitment, training and appraisal of managers.

THE INFORMAL APPROACH

6. Informal processes are outlined in Annex A, which forms an integral part of this Office Instruction.

7. Staff members and temporary employees who are involved in conflict or grievance situations are encouraged first to seek a solution through informal processes. Such processes are preferable in that they may yield results more quickly than formal ones, or may even lead to a positive negotiated outcome that could, for various reasons, not be achieved through a formal process.

8. The Office of the Ombudsman supplements the internal system of conflict resolution by providing the services of an impartial and independent person to address the grievances of staff members and temporary employees, and is also another means of obviating recourse to the formal grievance process.

9. Staff members and temporary employees pursuing an informal resolution to grievances are not precluded from recourse in parallel to formal and other processes (where applicable) under (a) this Office Instruction, or (b) pursuant to Office Instruction No. 19/2009 (“Launch of the new Performance Management and Staff Development System (PMSDS) in WIPO”) or Office Instruction No. 22/2009 (“Procedures for Rebuttal of Performance Evaluations for Temporary Employees”); or any subsequent Office Instruction governing formal grievance procedures; or, for staff members, (c) under WIPO Staff Regulation 11.1.

10. For more information, staff members and temporary employees may contact HRMD, the Ombudsman or the Staff Council for information on the requirements of the appropriate method of recourse, as the initiation of proceedings through a formal mechanism generally involves a time limit, which must be observed. It should be noted that recourse to a formal method does not preclude staff members and temporary employees from pursuing a resolution or settlement through informal means while formal proceedings move forward.

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THE FORMAL PROCEDURE

The Joint Grievance Panel

Composition

11. A Joint Grievance Panel, hereinafter referred to as the Panel, is hereby established. It shall consist of three members, each with an equal vote, and one non-voting member, as follows:

(a) a Chairperson and an alternate Chairperson appointed by the Director General, after consultation with the Staff Council, from among the staff members of the International Bureau;

(b) one member and two alternate members appointed by the Director General from among the staff members of the International Bureau;

(c) one member and two alternate members appointed by the Staff Council from among the staff members of the International Bureau; and

(d) the Director, HRMD, or his designate, who shall participate *ex-officio*, as a non-voting member, and who shall act as Secretary of the Panel. In the event that the grievance arises from a staff member or a temporary employee in HRMD, then the Director General shall appoint an interim replacement for the Secretary who shall act as such only for the purposes of that case.

12. The panel members should be selected on the basis of criteria including gender, interpersonal and communication skills and language skills in English and French. They should be persons known for their discretion and will be required to undergo training by the Organization in order to efficiently discharge their responsibilities within the Panel.

Qualifications

13. No member of the WIPO Appeals Board or the WIPO Joint Advisory Committee or the Office of the Legal Counsel or the Staff Council may serve as a member of the Joint Grievance Panel. The Panel shall not include any staff member of a grade below that of the staff member or temporary employee concerned, whether complainant or alleged perpetrator.

14. In the event that a Panel cannot be completed because it is missing a member or alternate who is of the same or higher grade than the complainant or alleged perpetrator, then the Director General shall appoint another alternate to replace the appointed member(s) and the Staff Council shall appoint a staff member who is not a member of the Staff Council to replace the member appointed by them (under paragraph 11(iii), above), who in both such cases shall participate only for the purposes of the Panel in question.

15. The Chairperson may excuse a Panel member at the member's request, in the event that the member has reasonable grounds to excuse himself/herself. The Chairperson shall excuse a member if the Chairperson determines that there is an actual or perceived conflict of interest. The Chairperson may also excuse a member from consideration of a case at the request of either the complainant or the alleged perpetrator, if the Chairperson considers there exist reasonable grounds to do so. Alternates chosen by the Chairperson shall replace any member so excused.

16. Panel members shall be neutral and do not represent the office from which they are appointed or elected.

Term of the Panel members

17. The Chairperson and alternate Chairperson are appointed for periods of up to three years; and the members and alternate members are appointed for periods of up to two years.

Grievances considered by the Joint Grievance Panel

18. If a staff member or temporary employee considers that informal resolution is inappropriate or has been unsuccessful, he or she may initiate the formal complaint procedure by submitting a written complaint to the Secretary of the Panel.

19. The Panel shall consider all grievances, with the exception of a grievance arising in the circumstances outlined in paragraph 20, below. Grievances which may be dealt with under this Office Instruction shall include allegations of discriminatory treatment, as well as allegations of harassment, which may include mobbing, bullying, intimidation and sexual harassment. For more information on harassment, please refer to Office Instruction 17/2006.

20. Grievances which shall not be the subject of this Office Instruction are those arising from:

(a) an administrative decision, as referred to in WIPO Staff Regulation 11.1; or

(b) an evaluation report as defined in Office Instruction No. 19/2009 (“Launch of the new Performance Management and Staff Development System (PMSDS) in WIPO”) or Office Instruction No. 22/2009 (“Procedures for Rebuttal of Performance Evaluations for Temporary Employees”) and any subsequent Office Instruction governing the handling of performance-related disagreements and the evaluation report.

Deadline for submission of grievance

21. In order to be receivable, a staff member or temporary employee must submit to the Secretary of the Panel his or her grievance in writing, with a copy to the Director, HRMD, which must be received within six weeks from the occurrence of the last incident of the alleged improper behavior.

Procedures before the Joint Grievance Panel

22. The procedures relating to the form of submission of a grievance, its initial assessment, the investigation, the filing of a reply by the alleged perpetrator, the consideration of the grievance and reply by the Panel, the disposition by the Panel, withdrawal of the grievance and related matters are contained in Annex B, which forms an integral part of this Office Instruction.

Confidentiality

23. All information and documentation concerning the grievance will be treated as confidential by the Joint Grievance Panel and kept by the Secretary of the Panel, without prejudice to the rights of due process in a disciplinary proceeding.

Accusations and reprisal

24. In the event that the Panel finds the grievance to be unfounded, but made in good faith, the Panel may recommend to the Director General steps to be taken with a view to protecting the reputation of all parties.

25. If the Panel determines that the complainant has intentionally or recklessly made false statements in connection with the submission of a formal complaint, or has otherwise submitted such grievance in bad faith, the Panel may recommend to the Director General that appropriate action be taken by the Administration against him or her. Such appropriate action may include the initiation of disciplinary proceedings under Chapter X (“Disciplinary Measures”) of the WIPO Staff Regulations and Staff Rules.

26. Conversely, any reprisal or threat of reprisal against individuals submitting formal or informal grievances, complaints or assisting in the investigation of complaints will be considered a violation of standards of conduct and may result in the initiation of disciplinary proceedings.

Appeal

27. When the WIPO Appeal Board receives an Appeal that includes an allegation of harassment, or personal grievance, the Board shall have the power to refer the grievance to the Panel but shall retain jurisdiction over that portion of the complaint which is related to an administrative decision.

Follow-up

28. A supervisor who is advised by a complainant of his or her submission of a complaint to the Panel, or is so advised by the Chairperson of the Panel with the consent of the complainant, shall closely monitor the working environment for which he or she has responsibility. Upon disposition of the complaint, the supervisor shall make every effort to ensure that all parties make the transition back to normal work as smoothly and quickly as possible. The supervisor, the complainant, the alleged perpetrator and any witnesses may resort to professional counseling, coaching, mentoring, etc., with the support of the Head, Staff Welfare Service, HRMD, to handle the outcome of the process. Supervisors shall also monitor their work environment with a view to ensuring that the improper behavior is not repeated, for cases in which this has been established. The existence of these provisions in this Office Instruction does not preclude the Panel from making specific recommendations in this regard.

Annual Report

29. The Chairperson of the Panel shall prepare a year-end report with an analysis on the number and general nature of the cases brought to the Panel, and shall comment on any organizational trends or activities. The report shall be based on anonymous aggregate data and, therefore, shall be prepared in a manner that will preserve the right to confidentiality of the persons who have brought matters to the attention of the Panel. The report shall be submitted to the Director General.

Review

30. This Office Instruction shall be reviewed and adjusted according to the experience gained by the Panel, and may be modified by the Director General with additional or revised administrative processes, upon consultation with the Panel. The Office Instruction shall otherwise continue in effect until further notice.

[Signed by Francis Gurry
Director General]

June 23, 2009

[Annexes follow]