

Preventing and Addressing Retaliation

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Policy on Preventing and Addressing Retaliation

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I. Introduction

Policy statement

- 1.1 WHO has zero tolerance for retaliation and is committed to providing a workplace where everyone feels safe and confident to speak-up against wrongdoing, against them or the Organization, without fear of negative consequences.
- 1.2 Staff members and collaborators have a duty to report potential misconduct and to cooperate with a duly authorized investigation or audit. Those who do so in good faith have a right to be protected from retaliation.
- 1.3 Retaliation, as defined in this Policy, constitutes misconduct. Such action violates the fundamental obligations of all staff members to uphold the highest standards of efficiency, competence, and integrity and to discharge their functions and regulate their conduct only with the interests of WHO in view. Retaliation also violates the contractual obligations of collaborators to comply with WHO's policies and to take appropriate measures to prevent any violations of the standards of conduct described therein by their employees and any third parties engaged by collaborators to provide services for WHO. Staff members or collaborators who engage in retaliation may be thus subject to disciplinary measures or other applicable sanctions.
- 1.4 This Policy puts in place a proactive scheme for processing and addressing retaliation with a view to reinforcing accountability and eliminating retaliatory conduct at WHO. The established reporting mechanisms of Internal Oversight (IOS) ensure that requests for protection against retaliation are examined efficiently and effectively. The Policy further clarifies the roles and responsibilities of those involved as well as the applicable steps and target timelines which aim to ensure a protective, safe, and efficient regulatory framework against retaliation in the Organization.

Objectives

- 1.5 The objectives of the Policy are:
 - a) To encourage individuals to report potential misconduct and/or cooperate with a duly authorized audit or investigation, in good faith, without fear of retaliation;
 - b) To reinforce the basis by which WHO can effectively address allegations of retaliation, manage risks, and protect those who make good faith reports of retaliation; and
 - c) To foster an environment where WHO functions in a transparent and accountable manner by setting out the safeguards and assurances that WHO provides and by describing the roles and responsibilities for actions that will be taken when allegations of retaliation are made.

Definitions

1.6 For the purposes of this Policy, the following definitions apply:

"Affected individual" is a staff member or collaborator towards whom the alleged conduct and/or retaliatory behavior is directed.

"Alleged offender" is a staff member or collaborator who is the subject of allegations of misconduct and/or retaliation.

"Complainant" refers to the person who reports allegations of misconduct and/or retaliation against a staff member or collaborator. A complainant may be an affected individual or a third party (e.g., a possible witness or bystander).

"Collaborators" refer to individuals who have a contractual relationship with WHO, such as temporary advisors, interns, volunteers, contractors, consultants, as well as those engaged by third parties such as vendors, contractors, technical partners, others in official and formal relations with WHO, including those operating as a WHO Collaborating Centre. Due to the vulnerability of members of the local population where WHO provides public health assistance in the context of an emergency operation, the term "collaborators" may, in certain circumstances, also be interpreted to include such individuals who engage in a protected activity in good faith notwithstanding the absence of an established employment relationship at the time that the allegations of misconduct and/or retaliation arose.¹

"Retaliation" means any direct or indirect detrimental action that adversely affects the actual or prospective employment or working conditions of an individual, where such action has been recommended, threatened, or taken for the purpose of punishing, coercing, intimidating, or injuring an individual because that individual engaged in a protected activity. Retaliation constitutes misconduct and is a violation of this Policy.

A "protected activity"² that engages WHO's duty to protect an individual from retaliation applies to a staff member or collaborator, who:

- a) Reports, in good faith, allegations of misconduct and/or retaliation by staff members or by collaborators, who have failed to comply with the obligations imposed by their contracts or terms of engagement, provided these allegations are not already in the public domain; and/or
- b) Cooperates in good faith with a duly authorized investigation or audit.

II. Reporting allegations of misconduct

Internal mechanisms

- 2.1 All allegations of misconduct, including retaliation (hereafter referred to as "allegations of retaliation"), shall be reported to Internal Oversight. Reports may be made in person, by e-mail to investigation@who.int, or through the WHO Integrity Hotline, in line with the procedures set out in Section III below. Reports made through the Integrity Hotline may be made on an anonymous basis.
- 2.2 Allegations of retaliation may also be reported to Internal Oversight on a non-anonymous basis, through other established internal mechanisms, who are obliged to report confidentially the allegations to Internal Oversight, such as:
 - a) Ethics;

¹ For example, situations where members of the local population are engaged by WHO on a short-term basis to support WHO operations.

² Reporting by a staff member who receives such allegations in their position within one of the established internal mechanisms identified in paragraph 2.2 of this Policy is an obligation of their functions and does not constitute a protected activity under this Policy.

- b) Prevention of and Response to Sexual Misconduct;
- c) Human Resources;
- d) Supervisors; or
- e) Heads of departments or offices concerned.

External mechanisms

- 2.3 Protection against retaliation may be extended to affected individuals who report allegations of retaliation to external mechanisms,³ provided that all of the following criteria are satisfied:
 - 2.3.1 Such reporting is necessary to avoid:
 - a) A significant threat to public health and safety; or
 - b) Substantive damage to WHO's operations; or
 - c) Violations of national or international law.
 - 2.3.2 The affected individual has previously reported the same information on a non-anonymous basis to Internal Oversight, and despite follow up, the Organization has failed to inform him/her in writing of the status of the matter within the periods of time specified in this Policy or within six (6) months of such a reporting; or,

The reporting of misconduct to Internal Oversight is not possible because:

- a) Allegations of retaliation directly implicate or involve Internal Oversight personnel; and
- b) Concerns of a potential conflict of interest with Internal Oversight have been shared with one of the other established internal mechanisms identified in paragraph 2.2, above; and
- c) Confidential guidance has been sought by that internal mechanism, in consultation with Legal, from the Chair of the Independent Expert Oversight Committee of WHO (IEOAC); and
- d) The affected individual has not been informed in writing of the guidance received from IEOAC within sixty (60) days of the request for guidance to the IEOAC.
- 2.3.3 The affected individual does not accept payment or any other benefit from any party for such reporting.
- 2.3.4 Such reporting is done in a way that complies with confidentiality requirements and the contractual obligations of the affected individual, due process rights of all involved, and that does not damage the Organization's reputation.
- 2.4 External reporting made in accordance with this Policy shall not be considered as a breach of staff members' obligations with regard to disclosure or use of WHO's non-public information, including with regard to their obligations of discretion under Article I of the Staff Regulations and Staff Rules.
- 2.5 However, external reporting cannot be used to express disagreement with advice or recommendations previously provided by an internal mechanism, to express disagreement with the results of an Internal Oversight's investigation, or a related process, including the provisional implementation of measures of prevention or protection against retaliation.

³ External mechanisms, for the purposes of this Policy, include governing bodies, local/national law enforcement, or national government.

III. Procedures

Deadlines

3.1 Complaints of retaliation and requests for protection against retaliation should be submitted as soon as possible, but no later than one year from the date on which the alleged retaliatory act took place or was threatened to be taken. In addition, the protected activity must have occurred no more than two years before the date the alleged retaliatory act took place.

Protection against retaliation for engaging in a protected activity

- 3.2 Staff members and collaborators are required to report misconduct, including retaliation, and to cooperate fully with a duly authorized investigation or audit. Staff members and collaborators who engage in good faith in such activities are protected from retaliation.
- 3.3 A direct or indirect threat or action that adversely affects the actual or prospective employment or working conditions of an affected individual for an improper purpose, and that could amount to retaliation, may include, but is not limited to:
 - a) Sexual misconduct:
 - b) Harassment;
 - c) Discrimination;
 - d) Abuse of authority; and/or
 - e) Threats to the individual, their family, and/or property including threats that may come from outside WHO.⁴
- 3.4 If an affected individual is not engaging in, or has not previously engaged in, a protected activity, any detrimental action recommended, threatened, or taken against him/her for an improper purpose, will not be considered retaliation under this Policy. It may, however, fall within other WHO's policies, and be in breach of the Staff Regulations and Staff Rules. Claims concerning conduct not covered under this Policy should be addressed to Human Resources, as a potential management issue or, if appropriate, reported directly to Internal Oversight. Confidential advice may also be sought from Staff Health and Wellbeing, including the Staff Psychologist and Staff Counsellor, or from the Ombudsperson at any time.
- 3.5 While an affected individual who cooperates in good faith with a duly authorized audit or investigation may seek protection against retaliation, cooperation with an investigation will not excuse an individual's own complicity in the underlying matter. Notwithstanding cooperation, an individual may face disciplinary or other appropriate action for his/her role in the matter under investigation. The fact that an individual has reported irregularities that implicate him/herself may, however, be considered as an extenuating circumstance and/or mitigating factor in any ensuing disciplinary or administrative proceedings. Neither the investigation, nor the imposition of any disciplinary or other appropriate measure resulting from an individual's alleged or actual complicity in the underlying matter under investigation, constitutes retaliatory action.

⁴ The definitions of sexual misconduct, harassment, discrimination, and abuse of authority are those defined in the Policy on Addressing Abusive Conduct (PAAC) and the Policy on Preventing and Addressing Sexual Misconduct (PASM), as appropriate.

⁵ Such as, for example, Section III.5 of the eManual Performance and Change of Status, which includes the Performance Management and Development Framework, the Policy on Preventing and Addressing Abusive Conduct (PAAC), and the Policy on Preventing and Addressing Sexual Misconduct (PASM).

3.6 The dissemination of unsubstantiated or false rumors, or the submission of intentionally false or misleading allegations of wrongdoing, are not considered protected activities under this Policy. Such acts may constitute misconduct for which disciplinary or other appropriate measures, including summary dismissal or termination, may be imposed in accordance with the Staff Regulations and Staff Rules for WHO's staff members, or the applicable terms of engagement for collaborators.

Confidentiality

- 3.7 The identity of complainants who allege retaliation, request protection against retaliation, or who participate in a protected activity, will be protected to the extent possible and in accordance with this Policy. Documents, including but not limited to, e-mails, recommendations for preventive and/or protective measures prepared by Ethics, interview records, statements or investigation reports of Internal Oversight, will normally be anonymized and/or redacted, as appropriate.
- 3.8 For the purposes of this Policy, confidentiality does not mean anonymity. Confidentiality means that the identity of affected individual(s) and complainant(s), and related information, will be disclosed to Internal Oversight,⁶ and may be disclosed in whole or in part:
 - To persons with a legitimate need-to-know in order to address a complaint of retaliation, including preventive and/or protective measures, or assist in the investigation of the matter by Internal Oversight;
 - b) In circumstances where, as part of legal proceedings including before the Global Board of Appeal and/or the International Labour Organization Administrative Tribunal, such disclosure is required; or.
 - c) When, in the discretion of Internal Oversight, disclosure of such confidential information is required in order to adequately address or remediate the situation alleged to be retaliatory or to attempt to prevent further retaliation.
- 3.9 To the extent possible, individuals will be reminded of these confidentiality requirements when reporting allegations of retaliation and informed prior to any disclosures being made.
- 3.10 Similarly, affected individuals requesting measures of protection against retaliation are obliged to respect the integrity of the process and the rights of the alleged offender(s) to confidentiality and due process. The Organization will not be bound to maintain confidentiality in situations where affected individuals requesting such protection fail to maintain confidentiality themselves or act in such a manner from which it may be reasonably inferred that they waive confidentiality, or where the information was available or obtained from other sources.

Roles and Responsibilities

A. Ethics

3.11 Ethics plays a lead role in developing recommendations for measures to protect staff members and collaborators from retaliation (hereafter referred to as "preventive and/or protective measures") and to ensure their wellbeing. Ethics is the coordinating mechanism for recommending and monitoring the implementation of preventive and/or protective measures against retaliation, as follows:

⁶ Except where the allegations are reported by the affected individual to Internal Oversight on an anonymous basis through the WHO Integrity Hotline.

- (a) In instances where Internal Oversight receives allegations of retaliation, it will promptly inform Ethics.
- (b) In instances where, in the course of an investigation of misconduct, Internal Oversight determines that retaliation may be occurring or the affected individual is at risk of retaliation, Internal Oversight will inform Ethics accordingly. Ethics will work with the affected individual to implement appropriate preventive and/or protective measures.
- (c) Recommendation(s) for preventive and/or protective measures made by Ethics are implemented by Human Resources on a provisional basis pending a final decision on the outcome of a complaint of retaliation. Working closely with Human Resources, Ethics monitors the implementation of its recommendations for preventive and/or protective measures against retaliation. Ethics also monitors the situation of the affected individuals and, together with Human Resources, keeps them apprised of the implementation process.
- (d) Internal Oversight keeps Ethics apprised of the progress of the investigation in accordance with section B, and Ethics keeps the affected individual/complainant apprised accordingly, with due regard for the need to preserve the integrity of the investigation.
- (e) Ethics reports on all cases where protection from retaliation is sought and/or addressed.
- 3.12 In preparing its recommendations, Ethics will consult with Internal Oversight, Human Resources and, if necessary, with colleagues dealing with Prevention of and Response to Sexual Misconduct, Staff Health and Wellbeing, and Security Management. Preventive and/or protective measures which mitigate the impact on the affected individual will receive priority consideration and the affected individual will be consulted before implementing any measures impacting them (e.g., reassignment or special leave with full pay).
- 3.13 Depending on the status of a complaint of retaliation and/or request for protection against retaliation, preventive and/or protective measures may be implemented by Human Resources on a provisional or final basis, and may include any one or more of the following:
 - a) Measures to physically separate the alleged offender and the affected individual, which may also include a no-contact directive.
 - b) A developmental assignment, reassignment, loan, or transfer of either the alleged offender or the affected individual to another vacant position, function, or office, after consultation with the affected individual.
 - c) Consideration of special leave for either the alleged offender or the affected individual.
 - d) Temporary changes in reporting lines.
 - e) Placement of the alleged offender on administrative leave.
 - f) Any other appropriate measure or combination of measures, including security measures, in line with WHO's applicable policies.
- 3.14 In instances where individuals who suspect wrongdoing, need guidance, or are concerned about the possibility of retaliation, noting the obligation of mandatory reporting, Ethics offers confidential advice and works with individuals to ensure that their concerns are appropriately addressed while minimizing the possibility of retaliation.
- 3.15 In instances where affected individuals are concerned that they may be subjected to retaliation now or in the future, Ethics, in consultation with Internal Oversight, and Human Resources, as well as other functions, as appropriate, may recommend immediate preventive and/or protective measures for implementation by Human Resources on a provisional basis, to prevent opportunities for retaliation pending submission of a complaint by the affected individual. In field situations, the services of other United Nations entities may be requested to ensure protection and security of affected individuals.

Access to victim/survivor support and services may also be facilitated by colleagues dealing with Prevention of and Response to Sexual Misconduct.

B. Investigations

Mandate

- 3.16 The authority to review and investigate complaints of misconduct, including retaliation, rests with Internal Oversight.
- 3.17 Complaints of retaliation may be submitted to Internal Oversight virtually or in person, by email to investigation@who.int, through the wHO Integrity Hotline, or through an established internal mechanism identified in paragraph 2.2. While complaints submitted through the Integrity Hotline may be reported on an anonymous basis, anonymity may impact Internal Oversight's efforts to investigate the complaint and/or the Organization's ability to implement effective measures of protection.
- 3.18 Complaints of retaliation should be as detailed as possible, and should include the following information:
 - a) Name(s) of the alleged offender(s).
 - b) Name(s) of the alleged affected individual(s) if the complaint is made by a witness or through other established internal mechanisms identified above.
 - c) Name and work title of the complainant.
 - d) Names of witness(es), if any.
 - e) Date(s) and location(s) of the incident(s).
 - f) Description of incident(s)/pattern(s).
 - g) Date of the submission of the complaint.
 - h) Any other relevant information, including documentary evidence, if available, and the reasons why the complainant considers that the alleged conduct constitutes retaliation in accordance with this Policy.

Intake

3.19 Internal Oversight will acknowledge receipt of a complaint of retaliation normally within ten (10) days of receipt and request any supplementary evidence or documents that the complainant may have access to, if necessary.

Preliminary review

- 3.20 Internal Oversight will conduct a preliminary review of the complaint to determine whether:
 - a) The affected individual has engaged in a protected activity; and,
 - b) There are reasonable grounds to support the claim(s) that the affected individual's participation in a protected activity was a contributing factor in causing the alleged retaliation, threat, or likelihood of retaliation.
- 3.21 Internal Oversight will seek to complete its preliminary review of the complaint within thirty (30) days of receiving all information requested.

- 3.22 If Internal Oversight determines that there are no reasonable grounds to support the perception or likelihood of retaliation with regard to the affected individual, it will (i) close the complaint, (ii) notify Ethics of its decision, and (iii) inform the affected individual in writing accordingly.
- 3.23 If Internal Oversight considers that there are reasonable grounds to support the perception or likelihood of retaliation with regard to the affected individual, it will (i) proceed with an investigation of the complaint, (ii) notify Ethics that preventive and/or protective measures are warranted in line with paragraph 3.11 above, and (iii) inform the affected individual in writing accordingly.

Investigation

- 3.24 During its investigation, Internal Oversight will gather evidence to aid in its independent evaluation of whether retaliation actually took place or was threatened. The implementation of applicable WHO's legislation, such as rules, policies, or procedures, including those governing recruitment and selection, evaluation of performance, non-extension or termination of appointment, or the mere expression of disagreement, corrective measures, constructive feedback, or a similar expression regarding work performance, conduct or related issues within a supervisory or similar relationship, do not constitute retaliation. However, the burden of proof shall rest with the Organization, which must prove by clear and convincing evidence that it would have taken the same action absent the protected activity.
- 3.25 Internal Oversight will seek to complete its investigation of the complaint and submit its final investigation report to the Director-General/Regional Director within one hundred and twenty (120) days.
- 3.26 Pending completion of the investigation, Internal Oversight may further engage with Ethics at any time to recommend implementation of appropriate provisional preventive and/or protective measures to safeguard the interests of the parties, including, but not limited to, one or more of the measures listed in paragraph 3.13. For collaborators, any such measures shall not include reinstatement or extension of an engagement beyond its original date of completion.
- 3.27 At the conclusion of its investigation, Internal Oversight will issue a final investigation report summarizing its findings, conclusions, and recommendations, for consideration by the Director-General/Regional Director, as appropriate.

C. Office of the Director-General/Regional Director

Post investigation actions and decision

3.28 Upon receipt of Internal Oversight's final investigation report, and, if applicable, receipt of the report of the Global Advisory Committee on formal complaints of abusive conduct (the "Committee"), the Director-General/Regional Director will decide on any necessary and appropriate measures to address negative consequences suffered as a result of a retaliatory action and protection of the affected individual from retaliation. The need for any further measures of protection will also be addressed in the decision, if necessary and appropriate. This decision will be based on the findings of Internal Oversight, recommendations from the Committee, if applicable, and from Ethics further to its consultations with Human Resources, Prevention of and Response to Sexual Misconduct, Staff Health and Wellbeing, and other relevant functions, as appropriate. This Director-General/Regional Director's decision may include but not be limited to, the rescission of the retaliatory decision, reinstatement, or, if requested by the affected individual, reassignment to another office and/or function, and/or

- change of reporting lines. For collaborators, such measures shall not include reinstatement or extension of an engagement beyond its original date of completion.
- 3.29 Disciplinary proceedings against a staff member for retaliation may also be initiated notwithstanding the fact that an affected individual did not request protection against retaliation under this Policy.
- 3.30 The Director-General/Regional Director will inform the affected individual of the outcome of the investigation and any decisions taken to address retaliation in writing in due course. However, normally, neither reports or recommendations related to the investigation nor details of the disciplinary measure imposed will be disclosed.
- 3.31 A copy of the Director-General/Regional Director's final decision, and a copy of the Internal Oversight's final investigation report will be shared with Ethics.

D. Ombudsperson

- 3.32 Staff members and collaborators are encouraged to seek advice and guidance from Ethics at any time. In addition, they may contact the Ombudsperson in order to discuss their situation, consider their options, and seek guidance at any time. An Ombudsperson is an independent and neutral interlocutor who provides confidential impartial assistance. Ombudspersons are bound by strict rules of confidentiality in accordance with their terms of reference and professional standards.
- 3.33 While seeking guidance and advice is encouraged, communications made to the Ombudsperson, are considered "off the record" and accordingly are not considered formal notice to the Organization. However, an Ombudsperson may make referrals according to the wishes of the affected individuals to Internal Oversight where formal notice can be provided.

E. Human Resources

- 3.34 Human Resources may be consulted at any time by Ethics or Internal Oversight.
- 3.35 Human Resources is responsible for the implementation of measures for prevention and protection in line with paragraphs 3.11(c) and 3.13.

IV. Review of administrative decisions

- 4.1 Recommendations of Ethics on preventive and/or protective measures under paragraph 3.11.(a)-(c) and provisional actions taken by Human Resources to implement such measures pending a final decision on the outcome of an investigation from Internal Oversight under paragraph 3.13, do not constitute final administrative decisions subject to review pursuant to Section 12 of the Staff Regulations and Staff Rules.
- 4.2 By contrast, determinations of Internal Oversight in the context of preliminary review and final actions or decisions issued by authorized officials of the Organization arising from an Internal Oversight's final investigation report, do constitute final administrative decisions, which WHO staff members may request the review of, pursuant to Section 12 of the Staff Regulations and Staff Rules.

V. Prohibition of retaliation against collaborators or third parties

5.1 If determined, any retaliatory actions by a staff member against a collaborator, its employees, agents, or representatives, a third party, or any other individual engaged in any dealings with WHO because such person has reported misconduct or engaged in another protected activity may lead to disciplinary or other appropriate action.

VI. Implementation of the Policy

- 6.1 Ethics will ensure that mandatory training for supervisors and managers comprises specific trainings on the implementation of this Policy, including how to appropriately respond to and handle allegations of misconduct and/or retaliation.
- 6.2 Ethics, in consultation with Internal Oversight, will organize and conduct a global staff survey, on a biennial basis, to gauge staff views on "tone at the top" issues and accountability and ethics-related topics, and to develop a comprehensive action plan to address any issues identified.
- 6.3 Internal Oversight and Ethics, in consultation with Human Resources, and other functions as needed, shall review and assess the terms and implementation of this Policy on an annual basis. As part of the annual reporting of activities, Internal Oversight and Ethics will respectively maintain a record of complaints of retaliation and instances of misconduct, including timelines of investigations, findings, and interim measures adopted, if any.
- 6.4 Ethics will include in an annual report to governing bodies measures taken in the context of complaints of retaliation and/or requests for protection from retaliation.

VII. Entry into force

- 7.1 This Policy shall enter into force on the date of its issuance.
- 7.2 This Policy supersedes the former Policy entitled "WHO Whistleblowing and protection against retaliation" issued in 2015.