
**Protection against Retaliation for Reporting Misconduct or for Cooperating with an
Authorized Fact-Finding Activity****Table of Contents:**

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A. Policy

1. It is the policy of UNFPA to foster a work environment free from retaliation and to take swift and appropriate action in cases in which retaliation occurred, as further described below.

B. Purpose and scope

2. The purpose of this document is to establish a framework and a procedure for the protection of staff members from retaliation, and to regulate permissible disclosure of allegations of misconduct to entities outside of UNFPA.

3. The terms of this policy apply to all staff members serving with UNFPA.

C. Definitions

4. "Retaliation" within the meaning of this policy means any direct or indirect detrimental action recommended, threatened or taken because an individual reported misconduct in good faith or cooperated with an authorized fact-finding activity. When established, retaliation is by itself misconduct.

5. "Fact-finding activity" within the meaning of this policy includes any authorized audit, evaluation, investigation, inspection, or management review.

D. Reporting suspected misconduct

I. Reporting misconduct through established mechanisms/assisting in fact-finding activities

6. All personnel of UNFPA have a duty to report misconduct and to assist in authorized fact-finding activities upon request. Allegations of misconduct shall be reported through the established mechanisms in UNFPA, including those established:

- (a) Pursuant to (i) the UNFPA policy on Accountability, Disciplinary Measures and Procedures pertaining to various types of misconduct, and, in addition, pursuant to (ii) the UNFPA Fraud policy regarding fraud; and
- (b) For allegations for which specific reporting procedures have been established, such as for (i) Harassment, Sexual Harassment and Abuse of Authority and (ii) Sexual Exploitation.

II. Disclosure of alleged misconduct to entities external to UNFPA

7. Notwithstanding UN Staff Regulation 1.2(i)¹, protection against retaliation will be extended to an individual who reports misconduct to an entity or individual outside of the established internal mechanisms, where the criteria set out in subparagraphs (a), (b) and (c) below are satisfied:

- (a) Such reporting is necessary to avoid:
 - (i) A significant threat to public health or safety; or
 - (ii) Substantive damage to the operations of UNFPA or the United Nations; or
 - (iii) Violations of national or international law; and
- (b) The use of internal mechanisms is not possible because:
 - (i) At the time the report is made, the individual has grounds to believe that he/she will be subjected to retaliation by the person(s) he/she should report to pursuant to the established internal mechanism; or
 - (ii) It is likely that evidence relating to the suspected misconduct will be concealed or destroyed if the individual reports to the person(s) he/she should report to pursuant to the established internal mechanisms; or

¹ United Staff Regulation 1.2(i) provides: "Staff members shall exercise the utmost discretion with regard to all matters of official business. They shall not communicate to any Government, entity, person or any other source any information known to them by reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Secretary-General. These obligations do not cease upon separation from service."

- (iii) The individual has previously reported the same information through the established internal mechanisms, and the Organization has failed to inform the individual in writing of the status of the matter within six months of such a report; and

(c) The individual does not solicit or accept payment or any other benefit from any party for making such a report.

8. When circumstances require that such reports be made outside of the established UNFPA internal mechanisms, preference shall be given to making the report to the Office of Internal Oversight Services (OIOS). In case (a) (i) above, it may be appropriate to make the report, *e.g.*, to a public emergency service provider.

E. Prohibition of retaliation

9. Retaliation is prohibited. Retaliation constitutes misconduct which, if established, will lead to disciplinary action and/or transfer to other functions in the same or a different office.

F. Protection from retaliation

10. Staff members have a right to be protected from retaliation. Protection against retaliation applies to any UNFPA staff member who:

(a) Reports the failure of one or more individuals to comply with their obligations under the Charter, UN Staff Regulations and Rules, UNFPA Financial Regulations and Rules, the Standards of Conduct for the International Civil Service or other relevant administrative issuances or policies, including any request or instruction from any staff member to violate those regulations, rules, standards, policies or issuances. The individual must make the report in good faith and must submit information or evidence to support a reasonable belief that misconduct has occurred; or

(b) Cooperates in good faith with a duly authorized fact-finding activity.

11. The dissemination of unsubstantiated rumors or the submission of an allegation or report of suspected misconduct that is intentionally false or misleading is not a protected activity under this policy. Intentionally making a false report, verbally or in writing, constitutes misconduct for which disciplinary measures may be imposed.

12. The legitimate application of regulations, rules or administrative policies, issuances or procedures, or the mere expression of disagreement, admonishment, criticism or a similar expression regarding work performance, conduct or related issues within a supervisory or similar relationship, do not constitute retaliation from which

protection may be sought under this policy. However, in applying such regulations, rules and administrative policies and procedures, UNFPA management must be able to show by clear and convincing evidence that the same action would have been taken absent the protected activity.

G. Procedures for addressing retaliation

I. Informal means of addressing retaliation

13. UNFPA encourages the informal resolution of conflicts. Therefore, a staff member who believes he/she is the victim of retaliation may address the matter, at his/her discretion, by contacting the Office of the Joint Ombudsperson of UNDP, UNFPA, UNOPS and UNICEF to seek a resolution of the matter. The staff member may also request a third person to mediate.

14. If the staff member is not satisfied with the informal process, or does not wish to initiate an informal process, he/she can submit a formal complaint.

II. Formal complaint of retaliation

The UNFPA Ethics Office:

15. A formal complaint of retaliation shall be made to the UNFPA Ethics Office. The Ethics Office shall maintain a confidential record of retaliation complaints so received.

Filing a formal retaliation complaint:

16. Staff members who believe that they are the victim of retaliation may submit a formal complaint within *60 calendar days* of the alleged act of retaliation. If the complaint alleges a chain of acts of retaliation, the complaint must be filed within *60 calendar days* of the most recent alleged act of retaliation. The retaliation complaint may be made by any means, including in person, by telephone or e-mail. The Ethics Office may afterwards request that a written and signed complaint be submitted. Complainants should forward all information and documentation available to them to support their complaint to the UNFPA Ethics Office as soon as possible.

Review by the UNFPA Ethics Office:

17. The UNFPA Ethics Office will seek to complete its preliminary review within *45 calendar days* of receiving the complaint of retaliation.²

² In accordance with ST/SGB/2007/11 entitled "United Nations system-wide application of ethics: separately administered organs and programmes" (effective 1 December 2007), if the Ethics Office does

18. All UNFPA divisions, offices and staff members are required to cooperate at all times with the Ethics Office and provide access to all records and documents requested by the Ethics Office, except for medical records that are not available without the express consent of the staff member concerned.

The UNFPA Ethics Office's determination and recommendation(s):

19. The Ethics Office will conduct a preliminary review of the complaint to determine if (i) the complainant engaged in a protected activity; and (ii) there is a *prima facie* case that the protected activity was a contributing factor in causing the alleged retaliation or threat of retaliation.

20. Should the Ethics Office determine following its preliminary review that there was/is a credible case or threat of retaliation, it shall refer the matter in writing to the Division for Oversight Services (DOS) for investigation and will immediately notify the complainant in writing that the matter has been so referred. DOS will seek to complete its investigation and submit its investigation report to the Ethics Office within *120 calendar days*.

21. Pending the completion of the investigation, the Ethics Office may recommend appropriate measures to safeguard the interests of the complainant, including but not limited to temporary suspension of implementation of the action reported as retaliatory and, in consultation with the complainant, temporary reassignment of the complainant or placement of the complainant on special leave with full pay.

22. Where, in the opinion of the Ethics Office, there may be a conflict of interest in DOS conducting the investigation, the Ethics Office may recommend to the Executive Director that the complaint be referred to an alternative investigating mechanism.

23. Once the UNFPA Ethics Office has received the investigation report from DOS, it will inform the complainant in writing of the outcome of the investigation and make its recommendations on the case to the concerned officials of UNFPA.³ Those recommendations may include that disciplinary action be taken against the retaliator.

not formally consider the complaint within *45 days*, the staff member may then refer the matter in writing to the Chairperson of the United Nations Ethics Committee.

³ In accordance with ST/SGB/2007/11 entitled "United Nations system-wide application of ethics: separately administered organs and programmes" (effective 1 December 2007), if following a final determination by the UNFPA Ethics Office of a matter referred to it by a staff member, the staff member wishes to have the matter reviewed further, he/she may refer the matter to the Chairperson of the Ethics Committee in writing. The Chairperson, after consultation with the Ethics Committee, may then undertake his/her own independent review of the matter and provide a report to the Executive Director.

24. If the UNFPA Ethics Office finds that there is no credible case of retaliation or threat of retaliation, but finds that there is an interpersonal or similar problem within a particular office, the Ethics Office will advise the complainant of the existence of informal mechanisms of conflict resolution in UNFPA, such as the Office of the UNDP/UNFPA/UNOPS/UNICEF Joint Ombudsperson.

25. If the UNFPA Ethics Office finds that there is a managerial problem based on the preliminary review of the complaint or the record of complaints relating to a particular division or office, it will advise the head of the division or office concerned and the Executive Director.

Protection of the person who suffered retaliation:

26. If retaliation against an individual is established, the Executive Director may, after taking into account the recommendations made by the Ethics Office or other concerned office(s) and after consultation with the complainant, take appropriate measures to rectify the negative consequences suffered as a result of the retaliatory action. Such measures may include, but are not limited to, the rescission of the retaliatory decision, including reinstatement, and, if requested by the complainant, transfer to another office or function for which the individual is qualified.

27. The procedures set out in this policy are without prejudice to the rights of an individual who has suffered retaliation to seek redress through the internal recourse mechanisms. An individual may raise a violation of present policy in any such internal recourse proceeding.

H. Final provisions

28. The procedures contained in this policy are established without prejudice to the right of the relevant officials of UNFPA to take action on their own initiative to prevent, investigate or impose disciplinary measures against individuals engaged in retaliation.

29. Any retaliatory measures against a contractor or its employees, agents or representatives or any other individual engaged in any dealings with UNFPA because such person has reported misconduct by UNFPA staff members will be considered misconduct that, if established, will lead to disciplinary or other appropriate action.

30. This policy has been aligned with ST/SGB/2007/11 (dated 30 November 2007 and effective 1 December 2007) entitled "United Nations system-wide application of ethics: separately administered organs and programmes". This revised policy enters into force on the day it is issued.