UNRWA INVESTIGATION POLICY
(DIOS TECHNICAL INSTRUCTION 02/2016)

I. Introduction

1. This Policy provides the framework and establishes governing principles for the investigations of allegations of misconduct by UNRWA personnel. It is consistent with Organization Directive No. 14, the Charter of the Department of Internal Oversight Services (DIOS), and has been prepared in accordance with generally accepted investigation standards applicable to administrative investigations, as reflected in the Uniform Principles and Guidelines for Investigations (2nd edition).

2. The principles articulated in this Policy outline and articulate both the rights and obligations of all UNRWA personnel in the conduct of staff misconduct investigations, including the rights and obligations of subjects of investigations. In case of a conflict between this Policy and UNRWA Staff Regulations, Staff Rules, Personnel Directives or a General Staff Circular, these latter instruments should prevail.

3. This Policy covers all misconduct investigations duly authorized by the Agency, whether conducted by DIOS investigators or by other UNRWA personnel specifically requested and authorized to conduct them, as well as to any external investigators retained by the Agency.

II. Scope of Application

4. Misconduct at UNRWA is defined similarly as in other United Nations Organizations and Agencies as a failure by personnel to comply with the required standards of conduct. These include, but are not limited to, fraud; corruption; theft; abuse of privileges and immunities; harassment; sexual harassment; abuse of authority/power; assault; sexual exploitation and abuse; violation of humanitarian principles, including neutrality; or failure to observe regulations, rules and policies. This Policy does not apply to managerial issues such as performance management issues and performance-related disagreements, to personal grievances arising from administrative decisions taken within the proper discretion of supervisors and management, or to complaints made by beneficiaries regarding access to services.

5. An administrative investigation is a fact-finding analytical process designed to gather information to determine whether any misconduct occurred, and, if so, the persons

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1 GSC 05/2007 ("Misconduct includes any failure to comply with obligations under the Charter of the United Nations, UNRWA Staff Regulations and Staff Rules or other relevant administrative issuances, UNRWA Financial Regulations and Rules, or the Standards of Conduct of the International Civil Service, including any request or instruction by any staff member to violate any of these rules or standards.")
responsible. In other words, it is an administrative process that concerns itself with the failure to observe the standards of conduct expected of international civil servants and serves as a basis for disciplinary or administrative proceedings. It differs from a criminal investigation, which serves as a basis for criminal prosecution. Therefore, different standards and procedures, as well as different standards of proof, shall apply to the conduct of administrative investigations.

6. The decision whether to take any disciplinary action against any staff (i.e., the disciplinary process) is separate from the investigative process and does not fall within the purview of this Policy.

III. Investigation Process

A. Intake

7. Before the opening of any formal investigation into an allegation of misconduct, the allegation must be reviewed to ensure that the alleged behavior, if established, would constitute misconduct. No UNRWA personnel has the right to have an investigation initiated. All allegations are reviewed by an Intake Committee that then recommends to the authorized decision-maker a recommended course of action.

8. In cases requiring immediate action without the chance for the Intake Committee to meet, the decision-maker may initiate an investigation without consulting the Intake Committee, although this decision should be presented to the following session of the Intake Committee for noting. In exceptional circumstances, the decision-maker may initiate an investigation without consulting or informing the Intake Committee, although in such cases the decision-maker should consult with DIOS beforehand.

9. A recommendation by the Intake Committee should endeavor to be made on every new allegation as quickly as possible and whenever possible within 20 days after it has been received. The authorized decision-maker should endeavor to provide his/her response and/or comments within 10 days of receipt of the recommendation of the Intake Committee. Thus, a decision for every case should be made as soon as possible, preferably within 30 days of the receipt of any complaint/allegation.

10. At the intake stage, the decision for action will be one of the following:

   (i) **Decline**: Where the facts alleged, if proved, would not constitute misconduct. Accordingly, these cases will also not be included in the yearly statistics of allegations of misconduct received. This option may be accompanied with a referral to the appropriate HQ Department or Field Office to deal with the issues underlying the complaint.
(ii) **Preliminary Assessment:** In principle, each case should go through a preliminary assessment. This phase allows collection of additional information needed to make an informed decision as to which other response option is most appropriate. The Intake Committee may decide, based on the information available, to proceed without a preliminary assessment. The preliminary assessment will usually be limited to an interview with the complainant, review of relevant documents and a brief assessment of the facts. The authorized decision-maker can then, based on the preliminary assessment, initiate an investigation or close the case as appropriate. Preliminary assessments should be completed, as far as practicable, within 60 days from the date of receipt of any complaint/allegations.

(iii) **Investigate:** Where the facts alleged, if proved, would constitute misconduct and if the allegations are credible, material, and verifiable. The investigation may be done after a preliminary assessment, unless another response option is better suited to treat the allegation.

(iv) **Record for Information:** Where the facts alleged, if proved, would constitute misconduct, but where a complaint lacks sufficient detail and/or investigative steps cannot be pursued. The receipt of additional information at a later stage may result in the re-opening of such allegations, in which case the Intake Committee may recommend a different course of action.

(v) **Management Intervention:** Where the facts could be more effectively and efficiently dealt with through local management intervention or performance review procedures rather than by way of investigation and possible disciplinary proceedings. This option should not be used for any allegation of serious misconduct.

(vi) **Suspend:** Where there is an existing ongoing investigation or other exceptional circumstances where the conduct of an immediate investigation may not be in the best interests of the Agency. Any such suspension decision should be revisited regularly by the Intake Committee to determine whether another response option is now suitable. No case should be suspended for more than six (6) months, absent exceptional circumstances such as the criminal detention of a staff member.

(vii) **Refer to DIOS:** An Intake Committee established in a Field Office may also refer a matter that it feels should be investigated by DIOS because of its sensitivity, the gravity of the alleged offence, or because senior staff are involved. The DIOS
Intake Committee will then review the matter and decide to investigate the matter or refer it back to the Field Office.

B. Formal Investigation

11. The investigation phase is the collection of all evidence available, both inculpatory and exculpatory, which will either substantiate or refute the allegation under investigation. The investigation findings and conclusions are based solely on the facts gathered and the evidence collected, and reasonable inferences to be derived therefrom. All relevant evidence must be presented in a report of investigation, along with the analysis upon which the findings are made and conclusions reached.

12. All investigations should endeavor to be completed as quickly as possible, and within 6 months of their initiation whenever possible. In allocating existing resources to the conduct of investigations, priority should be given to those allegations where the misconduct is the most serious, taking into account financial, security and/or reputational risks to the Agency. Accelerated procedures may be applied to priority investigations as required to address risks.

C. Reports of Investigation

13. Reports which substantiate allegations of misconduct shall be submitted to the Agency official with authority to initiate disciplinary proceedings against the relevant staff member if appropriate, and in the case of DIOS reports, to the Commissioner-General. The report, including annexes such as witness statements, audio recordings of interviews and/or transcripts, should also be uploaded on the Central Case Management System. DIOS should be notified in case it wants to review the report.

14. Reports which do not substantiate the allegation shall be submitted to the person who authorized the investigation and uploaded on the Case Management System for DIOS possible review. All parties who were informed of the identity of the subject of the investigation, e.g. the subject and witnesses, should usually be informed that the allegation was not substantiated.

15. All investigation reports are strictly confidential, and their contents may not be disclosed further, other than to comply with the disciplinary process or before UN administrative tribunals. Disclosure under any other circumstances is permitted only with the approval of either the Director of DIOS or the Commissioner-General for DIOS reports, or the Field Director for investigations conducted by the relevant field.

16. DIOS will prepare reports on the status of investigations for each Advisory Committee on Internal Oversight (ACIO) meeting, based on the information contained in the case management database and information provided by Field Offices. Such reports will be shared with the ACIO, the Commissioner-General and the Deputy Commissioner-General and will contain, at a minimum: (i) a list of new cases opened since the last ACIO meeting; (ii) a list of
cases closed since the last ACIO meeting, including those where disciplinary action was recommended; (iii) a list of open cases; and (iv) the distribution of cases by Field Offices, category, and aging.

IV. Governing Principles

A. Rights and Obligations of all UNRWA Personnel

17. All authorized investigators under para. 3 of this Policy shall have unrestricted, unlimited, direct and prompt access to all UNRWA records, property, officials, staff and other personnel, as well as all UNRWA premises, with the exception of medical records which generally require prior written consent from the concerned staff member or other personnel. Access to electronic information such as email correspondence and information stored on UNRWA computers and other UNRWA electronic devices should be subject to approval by the Commissioner-General through a request from the Director, DIOS.

18. UNRWA personnel have a duty to cooperate unreservedly with any investigation activities, including but not limited to making themselves available for interviews and responding promptly and fully to any requests for information. Failure to cooperate with such an investigation, or attempt to impede, obstruct or improperly influence an investigation, constitutes misconduct and may lead to disciplinary action. Personnel are protected from any retaliation for having cooperated with an investigation, in accordance with the Agency’s regulatory framework.

19. All UNRWA personnel who become aware of an investigation following a request for information, records or an interview are obligated to keep the contents of the interview and/or the request for information confidential, including from their supervisors, who may be informed only of the need for the individual to attend an interview. Failure to do so may constitute misconduct and lead to disciplinary action.

20. Investigators must also keep information related to an investigation confidential, and such information can only be used in making findings and reaching conclusions in the context of the investigation. In particular, the initial source of a report of misconduct shall not be divulged, except for cases where failure to provide this information will make it impossible for the subject to fully respond to the allegations (e.g., in some cases of harassment, sexual harassment or abuse of power/authority). Whenever possible, investigators will take into account any concerns expressed by witnesses/complainants regarding the information they provide, and may exceptionally not disclose the identity of any witnesses if the circumstances warrant it, bearing in mind particular sensitivities with respect to gender, culture, and age. Any such requests must first be discussed and cleared by the Chief, Investigations Division, DIOS.
21. All witness interviews must be recorded either in the form of a statement signed by the witness or through an audio or video recording, at the discretion of the investigator, in which case either a signed statement may be prepared, or a transcript of the interview may serve in lieu of a signed statement. All interviews with subjects, or interviews with complainants in cases of harassment, retaliation, sexual harassment, or abuse of power/authority should be audio or video-recorded.

B. Rights and Obligations of Complainants

22. UNRWA personnel are protected from retaliation for reporting, in good faith, any activity that may constitute misconduct. However, deliberately making false allegations, or providing information that is known to be false, or that recklessly disregards the accuracy of the information may constitute misconduct and lead to disciplinary action.

23. Complainants, who are also victims of the reported misconduct (e.g., victims of harassment, sexual harassment, sexual exploitation and abuse, assault, or theft), have the right to be periodically informed of the status of the investigation of their complaint. They shall also be informed generally of the outcome of the investigation, and in particular whether or not the allegation was substantiated. Where the allegations are not substantiated, complainants should be provided sufficient information that would reasonably allow them to make an informed decision as to whether or not to contest the decision. Complainants, who are not victims of the reported misconduct, but who report misconduct based on their obligation to do so, have no formal right to be informed of the outcome of the investigation; however, they should be informed that the investigation is completed, and may be informed generally if the allegation was substantiated or not, although great care must be placed in respecting confidentiality obligations towards the subject.

24. Vulnerable complainants and victims may request to have a third-party observer present during their interviews; for example, child witnesses could request a parent or a legal guardian. The observer must undertake, prior to the interview and in writing, to not disclose the contents of the interview, must be available at the time scheduled for the interview, and should not be connected to the investigation. The third-party observer may only provide support to the complainant, not interfere with the interview, and may be asked to leave by the investigator if the integrity of the interview is being jeopardized.

C. Rights and Obligations of Subjects of Investigations

25. The subject of investigation shall be given a full and fair opportunity to respond to the allegations against him/her.

26. Whenever practicable, an interview should be conducted in person with the subject, at which time the evidence collected, and in particular the inculpation evidence, subject to para. 20 above, shall be presented to the subject for him/her to provide his/her comments/response.
The interview shall be conducted in the language preferred by the subject (Arabic or English), and audio or video-recorded, with a copy of the transcript of the interview made available to the subject if such a transcript has been prepared. The subject may also agree to a summary of the interview being prepared for his/her review and signature once s/he agrees that it accurately summarizes what was said in the interview.

27. Prior to the interview, the investigator shall notify the subject of the allegations against him/her, generally describing the facts that are alleged to have occurred and the provisions of the regulatory framework that the subject is alleged to have violated. The notice should also include the rights and obligations of subjects of investigation. Such notification shall not occur less than 24 hours before the interview (excluding weekends or holidays), unless there are exceptional reasons to believe that such advance notice would jeopardize the integrity or effectiveness of the investigation. Any waiver of such advanced notice should be cleared with the Chief, Investigations Division, DIOS, or be waived by the subject in writing.

28. The subject may request that the interview take place at a location other than the installation where s/he works, in order to guarantee the confidentiality of the process.

29. The subject of investigation has no right to the presence of Counsel during interviews. However, the subject may be accompanied to the interview by a third party observer to provide emotional support to the subject. The observer shall be there strictly in a personal capacity, shall not be allowed to intervene or interrupt the interview, and may be asked to leave the interview if s/he does. The observer must undertake, prior to the interview and in writing, not to disclose the contents of the interview, must be available at the time scheduled for the interview, and should not be connected to the investigation. The presence of a third-party observer to any interview remains at the discretion of the investigator.

V. Conflicts of Interest

30. In case of allegations of misconduct against the Commissioner-General, the Director, DIOS shall refer the investigation to the United Nations Office of Internal Oversight Services (OIOS).

31. In case of allegations of misconduct against other members of the senior management team, the Director, DIOS or the Commissioner-General may refer the investigation to an external investigative office or professional investigator(s), if deemed warranted to ensure an independent and objective investigation.

32. In case of allegations of misconduct against DIOS personnel, the Director, DIOS shall conduct or commission a preliminary assessment and seek the advice of the ACIO on how to proceed further.
33. In case of allegations of misconduct against the Director, DIOS, the Commissioner-General shall inform the ACIO and seek the ACIO’s advice on how to proceed.

34. In cases where the investigation substantiates facts which are likely to constitute a crime, the Director, DIOS shall consider recommending to the Commissioner-General to refer the matter, in consultation with the Department of Legal Affairs, to the competent national law enforcement authorities for criminal investigation and, as appropriate, prosecution.

35. In cases where the investigation is entrusted to an external investigative entity, the investigation shall be conducted in accordance with the Uniform Principles and Guidelines for Investigations and, to the extent possible, with the UNRWA Regulatory Framework, including this Policy. In the case of conflict, the provisions of the UNRWA Regulatory Framework shall prevail.

VI. Entry into Effect and review

36. This Policy takes effect as of 29 September 2016, and should be reviewed after one year of its entry into effect. Subsequent reviews should take place periodically, but at least every three years.