

CHAPTER XI

APPEALS

RULE 11.1

Informal Resolution

- (a) A staff member who considers that his or her contract of employment or terms of appointment have been violated is encouraged to attempt to have the matter resolved informally.
- (b) Both the staff member and the Commissioner-General may initiate informal resolution, including mediation, of the issues involved at any time before or after the staff member chooses to pursue the matter formally.
- (c) The conduct of informal resolution, including mediation, may result in the extension of the deadlines applicable to decision review and to the filing of an application with the UNRWA Dispute Tribunal, as specified in staff rules 11.2 (c) and (e) and article 8, paragraph 1 (d) (iv) of the Statute of the UNRWA Dispute Tribunal, set out in staff regulation 11.3.

RULE 11.2

Decision Review

- (a) A staff member wishing to formally contest an administrative decision alleging non-compliance with his or her terms of appointment or the contract of employment, including all pertinent regulations and rules and all relevant administrative issuances pursuant to staff regulation 11.1 (A), shall, as a first step, submit a written request for decision review:
 - (i) in the case of staff members of Headquarters, to the Director of Human Resources; and
 - (ii) in the case of staff members of Field Offices, to the UNRWA Field Office Director in charge of the Field Office.
- (b) A staff member wishing to formally contest an administrative decision to impose a disciplinary measure or non-disciplinary measure, pursuant to staff rule 10.2, following the completion of a disciplinary process, shall, as a first step, submit a written request for decision review:
 - (i) in the case of staff members of Headquarters, to the Director of Human Resources; and
 - (ii) in the case of staff members of Field Offices, to the UNRWA Field Office Director in charge of the Field Office.
- (c) A staff member shall submit a request for a decision review within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested.

- (d) The decision review shall be carried out by:
 - (i) in the case of staff members of Headquarters, or staff members of Field Offices where the contested administrative decision has been made by the Field Office Director, the Deputy Commissioner-General;
 - (ii) in the case of staff members of Field Offices where the contested administrative decision has not been made by the Field Office Director, the relevant Field Office Director, after consultation as appropriate with the Department of Human Resources.
- (e) The outcome of the decision review shall be communicated in writing to the staff member within 30 calendar days of receipt of the request for decision review. Unless the outcome is a reversal of the contested administrative decision, the staff member should be informed of the provisions under the Staff Regulations and Rules for appealing a contested administrative decision to the UNRWA Dispute Tribunal.
- (f) The deadlines in staff rule 11.2, paragraphs (c) and (e), may be extended by the Commissioner-General pending efforts for informal resolution.

RULE 11.3
Suspension of Action

- (a) Neither the submission of a request for a decision review nor the filing of an application with the UNRWA Dispute Tribunal shall have the effect of suspending the implementation of the contested administrative decision.
- (b) However, where a staff member has requested decision review of an administrative decision involving separation from service, he or she may request the Commissioner-General to suspend the implementation of the decision until the decision review has been completed and the staff member has received notification of the outcome.

RULE 11.4
United Nations Appeals Tribunal

- (a) In accordance with article 2, paragraph 10, of its statute, the United Nations Appeals Tribunal shall have jurisdiction over an appeal against a judgement of the UNRWA Dispute Tribunal alleging that the Dispute Tribunal has:
 - (i) Exceeded its jurisdiction or competence;
 - (ii) Failed to exercise jurisdiction vested in it;
 - (iii) Erred on a question of law;
 - (iv) Committed an error in procedure, such as to affect the decision of the case; or
 - (v) Erred on a question of fact, resulting in a manifestly unreasonable decision.

- (b) An appeal may be filed by either party against the judgement of the UNRWA Dispute Tribunal within 60 calendar days following receipt of the Dispute Tribunal's judgement. An appeal shall not be receivable by the United Nations Appeals Tribunal unless the deadline has been met or has been waived or suspended by the Appeals Tribunal.
- (c) The filing of an appeal with the United Nations Appeals Tribunal shall have the effect of suspending the execution of a judgement of the UNRWA Dispute Tribunal that is contested.
- (d) A staff member may obtain outside counsel at his or her expense in the presentation of his or her case before the United Nations Appeals Tribunal.

RULE 11.5
UNRWA Internal Justice Committee

- (a) An UNRWA Internal Justice Committee is established to exercise the following functions:
 - (i) Review and make recommendations to the Commissioner-General on the implementation of the UNRWA system of administration of justice;
 - (ii) After liaising with the Department of Human Resources and Department of Legal Affairs on issues relating to the search for suitable candidates (including by conducting interviews as necessary), nominate two or three candidates for each vacancy for the position of judges for formal appointment by the Commissioner-General;
 - (iii) Draft, and review as necessary, the code of conduct for the judges, for consideration and approval by the Commissioner-General;
 - (iv) Decide whether a judge should be recused on grounds of conflict of interest; and
 - (v) Make recommendations to the Commissioner-General whether a judge should be removed on grounds of misconduct or incapacity.
- (b) The Committee shall comprise the following members:
 - (i) One area staff member selected biennially by the Inter-Staff Union Conference;
 - (ii) One international staff member elected biennially by ballot of the international staff;
 - (iii) Director of Human Resources;
 - (iv) The Legal Adviser;
 - (v) Three distinguished external jurists: one nominated by the persons referred to in subparagraphs b (i) and (ii), one nominated by the persons referred to in subparagraphs b (iii) and (iv), and the third chosen by consensus of the six other members of the Committee.
- (c) The Committee shall be chaired by one of the three external jurists referred to in subparagraph b (v) above, chosen by consensus of the members of the Committee.

- (d) The members of the Committee will exercise their functions in the interest of the proper administration of justice, and in accordance with such terms of reference as determined by the Commissioner-General.
- (e) The Committee may only make a decision with the agreement of at least five of its members including a majority of the three distinguished external jurist members.
- (f) The Committee shall determine its own rules of procedure.
- (g) A person referred to in subparagraph (b) (i) or (ii) above shall be eligible for re-selection or re-election and may be removed by consensus of the other members of the Committee.
- (h) Where a person referred to in subparagraph (b) (i) or (ii) above is unavailable to consider a matter, an alternate shall serve. Alternates shall be selected in the same manner and at the same time as the members and alternates who are available shall serve in the order in which they were selected or received votes in the relevant election.
- (i) In addition to such specific reviews as may be requested by the Commissioner-General, the Committee shall perform a general review of the UNRWA system of administration of justice at least once every 3 years.
- (j) The Committee shall report annually to the Commissioner-General. In their reports, the views of the judge(s) of the UNRWA Dispute Tribunal shall be separately reflected in an annex.