

World Bank Group Directive/Procedure

Conduct of Disciplinary Proceedings for INT Investigations

Bank Access to Information Policy Designation

Public

Catalogue Number

EXC10.01-DIR.103

Issued

September 15, 2016

Effective

September 15, 2016

Content

This Directive/Procedure, "Conduct of Disciplinary Proceedings for INT Investigations," sets forth a summary of staff rights, obligations and procedural safeguards in the conduct of disciplinary proceedings under Staff Rule 8.01, "Disciplinary Proceedings."

Applicable to

IBRD, IDA, IFC, MIGA, ICSID

Issuer

President, IBRD/IDA, IFC and MIGA, EXC;

Sponsor

Vice President, Integrity (INT), INTVP; IFC Executive Vice President and CEO, CEXVP; MIGA Executive Vice President and CEO, MIGEX;

SECTION I – PURPOSE AND APPLICATION

This Directive/Procedure, "Conduct of Disciplinary Proceedings for INT Investigations," sets forth a summary of staff rights, obligations and procedural safeguards in the conduct of disciplinary proceedings under Staff Rule 8.01, "Disciplinary Proceedings."

This Directive/Procedure applies to the Staff of the institutions of the World Bank Group.

SECTION II – DEFINITIONS

Capitalized terms in this Directive/Procedure have the meanings ascribed to them in Staff Rule 1.01, "General Provisions."

SECTION III – SCOPE

A. Staff Rights

I. Subject Staff Members

Staff members who are the subjects of allegations of misconduct in disciplinary proceedings under Staff Rule 8.01, "Disciplinary Proceedings," ("subject staff members") are accorded the following rights:

1. Throughout the course of disciplinary proceedings, subject staff members are presumed innocent until all facts and circumstances have been obtained and a decision on the evidence has been made by the World Bank Group Human Resources Vice President.
2. Subject staff members will be provided a written Notice of Alleged Misconduct against them at the onset of an investigation.
3. During the course of an investigation, subject staff members will be provided with an opportunity to respond to allegations against them and identify any information or evidence (including potential witnesses or documents) that the subject staff member believes may support his/her position.
4. If an investigator intends to conduct an interview with a subject staff member in order to provide that staff member with the written Notice of Alleged Misconduct and seek his/her response during an interview, the investigator will inform the subject staff member via e-mail at least twenty-four (24) hours in advance, unless there is a specific reason to believe that advance notification would jeopardize the investigation, such as leading to tampering with witnesses or evidence. The e-mail notification will include, and seek the subject staff member's written acknowledgement of receipt of, the following information:
 - i. the nature of the alleged misconduct;
 - ii. a non-exhaustive list of standards relevant to allegations of misconduct;
 - iii. an overview of the investigative and decision-making process; and

- iv. the subject staff member's rights and obligations, including the right to be accompanied by another staff member to his/her interview.
- 5. During the course of disciplinary proceedings, subject staff members may consult with family members, the Bank Group Ombuds Services Office, a Staff Association representative (including Staff Association Legal Counsel), and, at no expense to the Bank Group, personal legal advisors.
- 6. Subject staff members may be accompanied to their interview by another staff member as an observer so long as the accompanying staff member is reasonably available and is not connected to the matter under investigation. The accompanying staff member may be a Staff Association representative. In order to protect the confidential nature of the proceedings, the accompanying staff member will be required to sign a non-disclosure agreement.
- 7. The investigator will provide regular updates to subject staff members on the general status of an investigation and promptly respond to specific queries from subject staff members.
- 8. Subject staff members will be notified of any disciplinary measures that will be taken and the reasons for their imposition by the decision-maker. Except where such measure is oral censure, the notification will be in writing.
- 9. If the allegations against the subject staff member were not substantiated or are unfounded, the investigator will inform the complainant in writing and, as appropriate other parties to a preliminary inquiry or investigation, of the outcome of the preliminary inquiry or investigation in order to protect the reputation of the subject staff member.
- 10. Subject staff members may appeal any disciplinary decision made under the provisions of Staff Rule 8.01, "Disciplinary Proceedings," to the World Bank Administrative Tribunal under the provisions of Staff Rule 9.05, "The World Bank Administrative Tribunal."

II. Complainants

Complainants (staff members who brought allegations of misconduct against another staff member) are accorded the following rights:

- 1. If an interview of a complainant is warranted, the complainant may be accompanied to his/her interview by another staff member as an observer so long as the accompanying staff member is not connected to the matter under investigation. The accompanying staff member may be a Staff Association representative. In order to protect the confidential nature of the proceedings, the accompanying staff member will be required to sign a non-disclosure agreement.
- 2. The investigator will provide regular updates to complainants on the general status of an investigation and promptly respond to specific queries from complainants.
- 3. The investigator will inform a complainant of the outcome of a preliminary inquiry or investigation into allegations of misconduct he or she brought against another staff member.

4. If the allegations were substantiated, the investigator will include in the notice of outcome to the complainant what disciplinary measures were imposed, if any, as provided in Staff Rule 2.01, "Confidentiality of Personnel Information," paragraph 4.01. A staff member informed under this provision must not disclose the information to any other person.

III. Witnesses

Witnesses (staff members who assist or provide information in conjunction with disciplinary proceedings under Staff Rule 8.01, "Disciplinary Proceedings") are accorded the following rights:

1. Absent exigent circumstances, investigators will provide all witnesses with at least twenty-four (24) hours' notice of their rights and obligations in writing before their interviews are conducted.
2. The witness may be accompanied to his/her interview by another staff member as an observer so long as the accompanying staff member is reasonably available and is not connected to the matter under investigation. The accompanying staff member may be a Staff Association representative. In order to protect the confidential nature of the proceedings, the accompanying staff member will be required to sign a non-disclosure agreement.
3. Under the provisions of Staff Rule 2.01, "Confidentiality of Personnel Information," paragraph 4.01, the World Bank Group Human Resources Vice President, may decide that information about disciplinary measures in a particular case should be communicated to other staff members when circumstances warrant.

B. Staff Obligations

All staff members have the following obligations with respect to the conduct of disciplinary proceedings pursuant to Staff Rule 8.01, "Disciplinary Proceedings":

1. Staff members must cooperate fully with requests for assistance made by investigators throughout the disciplinary proceedings.
2. Staff members must personally respond to requests for information during the disciplinary proceedings.
3. Staff members are required to make themselves available for, and respond personally to, questions during interviews with investigators.
4. Staff members must maintain the confidentiality of the disciplinary proceedings, in order to preserve the integrity of the fact-finding process, to avoid the inadvertent spread of misinformation, and/or to avoid the appearance of undue influence over other staff members who might have to be interviewed on the matter under investigation. Specifically, staff members (including observers, witnesses and subject staff members) may not discuss ongoing preliminary inquiries or investigations (including the fact that a staff member has been interviewed by an investigator) with anyone without prior written clearance from the investigator, with the following exceptions: (i) a personal legal advisor; (ii) a Staff Association representative (including Staff Association Legal Counsel); (iii) the Ombuds Services Office; and (iv) family members. Unless otherwise permitted herein,

communications to other parties about ongoing preliminary inquiries or investigations without prior clearance from the investigator(s) is expressly prohibited and is separate grounds for disciplinary action. For the avoidance of doubt, communications by an investigator about ongoing preliminary inquiries or investigations to any person who is not a necessary participant in the disciplinary proceedings or who otherwise does not have a need-to-know, is expressly prohibited and may be subject to disciplinary action.

5. Staff members must not retaliate or threaten to retaliate against any party involved or believed to be involved in disciplinary proceedings. As set forth under Staff Rule 8.02, "Protections and Procedures for Reporting Misconduct (Whistleblowing)," managers and other staff members are expressly prohibited from engaging in any form of retaliation against any person for reporting suspected misconduct under this Rule, or for cooperating or providing information during an ensuing review or investigation. A staff member who engages in such retaliation will be subject to proceedings under Staff Rule 3.00, "Office of Ethics and Business Conduct (EBC)."

In addition, subject staff members also have the following obligations:

6. Subject staff members must cooperate fully, and must personally respond to the allegations against them. This includes: (i) making themselves available for, and responding truthfully to, questions during one or more interviews with investigators; and (ii) responding in writing to the allegations. Failure or refusal to cooperate may constitute misconduct under Staff Rule 8.01, "Disciplinary Proceedings," or be considered an aggravating circumstance by the decision-maker in its determination whether misconduct has occurred and the appropriate disciplinary measures, if any, to impose.
7. Subject staff members will be required to sign a non-disclosure agreement in order to be provided with investigative documents, records and reports of investigation in conjunction with disciplinary proceedings under Staff Rule 8.01, "Disciplinary Proceedings." By signing the non-disclosure agreement, the subject staff member agrees:
 - i. not to copy or replicate the documents, records or report(s) in whole or in part without the express written consent of the investigator except for the sole purpose of attaching it as an annex to an Administrative Tribunal pleading; and
 - ii. not to reveal or discuss the contents of the documents, records or report(s) with anyone (absent the express written consent of the investigator), other than with a personal legal advisor, a Staff Association representative (including Staff Association Legal Counsel), the Ombuds Services Office, and family members.

C. Procedural Safeguards

The purpose of an investigation is to establish the facts by obtaining, evaluating, and analyzing all available information and evidence - both inculpatory and exculpatory - to substantiate or refute the allegations.

The Bank Group is committed to ensuring that allegations of staff misconduct are investigated in an impartial, thorough and timely manner; that investigations are conducted with fairness for all parties concerned; and that the rights of all parties are fully protected. To ensure a full and fair process, in addition to the above rights and obligations, the Bank Group has adopted a number

of procedural safeguards throughout disciplinary proceedings conducted pursuant to Staff Rule 8.01, "Disciplinary Proceedings."

1. Limitations on Investigative Activities

- i. Investigators may not conduct preliminary inquiries on allegations unless sufficient detail or supporting evidence has been provided such that the matter can be pursued responsibly.
- ii. Subject staff members may not be the subject of an investigation that is predicated on unsupported allegations.
- iii. Investigators may not access information, statements or any other records of the Office of Mediation Services, as provided in Staff Rule 9.01, "Office of Mediation Services."
- iv. Investigators may not obtain staff medical information except with the staff member's permission and in accordance with Staff Rule 2.02, "Confidentiality of Medical Information and Medical Records."
- v. Investigators may not obtain information from the Ombuds Services Office except in accordance with Staff Rule 9.02, "Ombuds Services Office."
- vi. Investigators may not access financial disclosure or Declaration of Interest records from the Office of Ethics and Business Conduct, without the authorization of the Chief Ethics Officer.
- vii. Investigators may only review e-mail records without prior notice to the subject staff member after obtaining written authorization as provided under Administrative Manual Statement 6.20, "Information Security," Annex A, "Information Security Policy for Information Users."

2. Interviews

- i. To ensure accuracy of the interview record, absent exigent circumstances (e.g. recording equipment malfunction, impromptu interview or an external party who does not consent to be recorded), all interviews will be audio-recorded.
- ii. A transcript will always be prepared for interviews with a subject staff member. Subject staff members will be provided with a copy of their interview transcript(s) to assist their preparation of their written response to the notice of allegations.
- iii. If a transcript is prepared, complainants and witnesses will be provided an opportunity to review a copy of their interview transcript(s), upon their request and subject to a signed non-disclosure agreement. Whether or not a transcript is prepared, staff members and external parties may request (in writing) the opportunity to listen to the audio recording of their interview.

3. Staff Member's Written Response to the Notice of Alleged Misconduct

- i. Subject staff members will be provided with at least ten (10) workdays to respond in writing to the notice of alleged misconduct. If the subject staff member has been interviewed by the investigator, the subject staff member will be provided with a copy of the transcript of his/her interview(s), and the 10-day time period in which to furnish the written response to the allegation(s) will not commence until receipt of the transcript(s) by the subject staff member. If an interview was not conducted, the subject staff member must provide his/her written response to the allegations within ten (10) workdays upon receipt of the written notice of alleged misconduct.
- ii. A subject staff member may request an extension of time in which to submit his/her written response to the notice of alleged misconduct. Such requests must be in writing and include the reason for an extension. The investigator will respond to the request in writing. Extensions will not be granted based solely on scheduling concerns of a subject staff member's personal legal advisor.
- iii. Included in their response to the allegation(s), subject staff members should provide exculpatory evidence as well as identify any person(s) and/or document(s) the subject staff member believes may support his/her position.
- iv. The investigator will not deliver the investigative findings to the decision-maker until a written response to the allegations has been submitted within the time allotted; the investigator has interviewed any relevant rebuttal witnesses identified, or reviewed any evidence provided in the subject staff member's response.

4. Review of the Draft Investigative Report

- i. Subject staff members will be provided a copy of the final report in draft for review and comment before the report is finalized and submitted to the decision-maker. The draft report will contain all findings and evidence (including transcripts of witness interviews) upon which the decision-maker will make his/her decision. The purpose of this review will be to enable the subject staff member to: (i) identify any perceived factual errors before the report is finalized; (ii) introduce any other relevant information the subject staff member believes may rebut the findings or support the subject staff member's position; (iii) clarify any of the subject staff member's previous statements; and (iv) comment on the report.
- ii. Subject staff members will be provided ten (10) workdays to provide any comments on the draft report. A subject staff member may request an extension of time in which to submit his/her comments. Such requests must be in writing and include the reason for an extension. The investigator will respond to the request in writing. Extensions will not be granted based solely on scheduling concerns of a subject staff member's personal legal advisor.
- iii. If the subject staff member chooses to comment on the draft final report, the comments must include all information that the subject staff member wishes the decision-maker to consider. Information not presented, and arguments not raised, in the written comments or other previous written submissions to the investigator, will not be included with the report. They will therefore not be considered in the decision-making process, and may be excluded in any subsequent administrative

appeal, unless such information was not available to the subject staff member when s/he responded to the draft final report.

- iv. If the subject staff member's comments on the draft of the final report result in a substantive revision to the findings or conclusions, which is adverse to the subject staff member, the subject staff member will be given an opportunity to review the subsequent draft of the final report and to submit an additional response to the revised draft before it is finalized and submitted to the decision-maker.
- v. All copies of the draft final report provided to the subject staff member and his/her advisors must be handled in accordance with the signed non-disclosure agreement.

5. Review of the Final Investigative Report

- i. The subject staff member will be entitled to receive a copy of the final report of investigation (without the supporting exhibits previously reviewed by the subject staff member), concurrent with its delivery to the decision-maker, to enable the subject staff member to know of any rebuttal to the subject staff member's comments. All copies of the final report provided to the subject staff member and his/her advisors must be handled in accordance with the signed non-disclosure agreement.

6. Restriction on Disclosure of Investigative Reports

- i. To maintain confidentiality of investigative findings and supporting evidence that would form the basis for the World Bank Group Human Resources Vice President to decide whether a subject staff member engaged in misconduct and if so, what disciplinary measures to impose, if any, complainants and witnesses do not have the right to review investigative reports.

7. Assistance During Investigation

- i. Subject staff members may obtain the assistance of a Staff Association representative (including Staff Association Legal Counsel), or personal legal advisors, at no expense to the Bank Group, in the preparation of written responses to the notice of alleged misconduct; review and comment on the draft investigative report(s); and throughout the investigation.
- ii. Personal legal advisors will not be permitted to attend interviews, or meetings held during the course of disciplinary proceedings.
- iii. Members of the Bank Group's Legal Departments may not represent, advise or otherwise assist the subject staff member in connection with the investigation.
- iv. The assistance of a personal legal advisor will not relieve the subject staff member of his/her obligations under Staff Rule 8.01, "Disciplinary Proceedings," and this Directive/Procedure, including the obligation to respond personally and truthfully in the matter under investigation.

- v. Although investigators will endeavor to accommodate subject staff members who obtain legal assistance, the investigator is not obligated to correspond with subject staff members through their personal legal advisors.

8. Notification of Decision on Misconduct

- i. The actual decision on whether misconduct occurred and the discipline to impose, if any, is made, as provided in Staff Rule 8.01, "Disciplinary Proceedings," generally by the World Bank Group Human Resources Vice President, or someone designated by him/her, who will consider the findings of fact from the investigation and the input and/or recommendations from any other Bank Group official(s) with whom the decision-maker may decide to consult for the purpose of reaching a fully reasoned and informed decision.
- ii. In accordance with Staff Rule 9.05, "The World Bank Administrative Tribunal," a subject staff member may appeal any disciplinary decision to the Administrative Tribunal within 120 days of being notified of the Bank Group's decision.

9. Confidentiality and Communications Regarding Disciplinary Proceedings

- i. Subject staff members will be permitted to contact other staff members regarding ongoing disciplinary proceedings only with INT's express written permission and for the sole purpose of assessing whether the subject staff member wishes to propose such individuals as witnesses, provided they have not already been interviewed by INT. The investigator will warn subject staff members of the limits of proper communication with potential witnesses to avoid the appearance of improper influence, intimidation or threat of retaliation.

SECTION IV – EXCEPTION

None

SECTION V – WAIVER

The Issuer may waive any provision of this Directive/Procedure, with advice from the Vice President, Integrity, INTVP.

SECTION VI – OTHER PROVISIONS

None

SECTION VII – TEMPORARY PROVISIONS

None

SECTION VIII – EFFECTIVE DATE

This Directive/Procedure is effective as of the date on its cover page.

SECTION IX – ISSUER

The Issuer of this Directive/Procedure is the President, IBRD/IDA, IFC and MIGA, EXC

SECTION X – SPONSOR

The Sponsor(s) of this Rule are:

Vice President, Integrity, INTVP

IFC Executive Vice President and CEO, CEXVP

MIGA Executive Vice President and CEO, MIGEX

SECTION XI – RELATED DOCUMENTS

Staff Rule 2.01, "Confidentiality of Personnel Information"

Staff Rule 3.00, "Office of Ethics and Business Conduct (EBC)"

Directive/Procedure, "Conduct of Disciplinary Proceedings for EBC Investigations"

Staff Rule 8.01, "Disciplinary Proceedings"

Staff Rule 8.02, "Protections and Procedures for Reporting Misconduct (Whistleblowing)"

Questions regarding this Directive/Procedure should be addressed to the Vice President,
Integrity, INTVP.