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Rules of Procedure
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Guidelines
of the
Joint Appeals Board
at Headquarters

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RULES OF PROCEDURE AND GUIDELINES OF THE JOINT APPEALS BOARD AT HEADQUARTERS

I. GENERAL

A. Definitions

For the purpose of these rules of procedure, unless otherwise indicated:

- (1) **"Appeal"** shall mean a complaint which is being pursued under Chapter XI of the Staff Rules, beginning with the request for administrative review and concluding with the decision taken by the Secretary-General on the report of the Joint Appeals Board Panel.
- (2) **"Appellant"** shall mean any individual who has initiated a complaint under the provisions of Chapter XI of the Staff Rules.
- (3) **"Board"** or **"JAB"** shall mean the Joint Appeals Board at Headquarters, including all Chairpersons, Members appointed by the Secretary-General and Members elected by the staff.
- (4) **"Calendar"** shall mean the chronological list of appeals pending before the Board.
- (5) **"Conciliating Officer"** shall mean the member of the Board designated by the Presiding Officer to assist the parties in settling the case.
- (6) **"Conciliation"** shall mean the procedure under Staff Rule 111.2(a) aimed at reaching a conciliatory conclusion with the assistance of a Conciliating Officer.
- (7) **"Counsel"** shall mean the representative of the appellant. Counsel may be any current or retired staff member who agrees to assist an appellant or prospective appellant in presenting, settling or conciliating an appeal under Chapter XI of the Staff Rules.
- (8) **"Day"** shall mean regular calendar day, unless otherwise indicated.
- (9) **"Executive session"** shall mean a meeting of the JAB Panel *in camera*.
- (10) **"Notice"** shall mean written notice unless otherwise stated. If time is not sufficient to assure receipt of written notice sent by messenger, regular mail or pouch, notice may be given by cable or by telephone and confirmed in writing.
- (11) **"Members of the Board"** shall include all Chairpersons, Members appointed by the Secretary-General and Members elected by the staff under Staff Rule 111.1.
- (12) **"Members of the Panel"** shall mean the three persons on the Panel which is constituted to consider an appeal.
- (13) **"Panel"** shall mean the three-person body which is constituted under Staff Rule 111.2(d) to consider an appeal, and shall consist of a Chairperson, a Member appointed by the Secretary-General and a Member elected by the staff.
- (14) **"Parties"** shall mean the appellant and respondent. Wherever "parties" is mentioned in these rules, the term "and/or their representatives" is implied also, unless otherwise indicated.
- (15) **"Presiding Officer"** shall mean the Chairperson who, *inter alia*, directs the work of the Board.
- (16) **"Representative"** shall mean representative of either of the parties.

- (17) *“Representative of the Secretary-General”* shall mean the officer designated by the Secretary-General to represent him in an appeal.
- (18) *“Respondent”* shall mean the Secretary-General of the United Nations or his representative as defined in A(17) above.
- (19) *“Review”* shall, unless otherwise indicated, mean administrative review under Staff Rule 111.2(a).
- (20) *“the secretariat”* or *“the JAB secretariat”* (as opposed to “the Secretariat of the United Nations with a capital “S”) shall mean the secretariat of the Board.
- (21) *“Secretary of the Panel”* shall mean the officer who is serving as Secretary to a Panel constituted to consider an appeal.
- (22) *“Settlement”* shall mean a binding resolution of the appeal by the parties.
- (23) *“Staff member”* shall mean a current or former staff member (holding or having held a contract under the Staff Regulations and Rules).
- (24) *“Staff Rules”* or *“Rules”* shall mean the 100, 200 or 300 series of Staff Rules of the United Nations promulgated by the Secretary-General under the Staff Regulations of the United Nations.
- (25) *“These rules”* or *“rules”* shall mean the rules of procedure of the Board (as differentiated from the “Staff Rules”).
- (26) *“Time-limit”* shall mean the deadline for the filing of a submission or the taking of an action. For the purpose of these rules the time-limit shall take effect upon the close of business on the date on which the submission is due or the action is to be taken, in accordance with the Staff Rules, these rules of procedure, or with a ruling made by the Presiding Officer or by the Panel. If a time-limit falls on a weekend or on an official holiday, the time-limit shall be deemed to extend to the close of business on the first working day thereafter.

B. Interpretation

The Board shall, to the extent required, interpret these rules of procedure.

C. Amendments

These rules of procedure may be amended by a two-thirds majority vote of the Board members voting at any time, at a properly constituted special meeting of the Board, attended by a quorum (fifty per cent plus one) of the Board membership.

II. ORGANIZATION

A. Presiding Officer

- 1. The Presiding Officer of the Board shall be selected from the roster of chairpersons and shall serve, on a rotating basis, in alphabetical order, for a term of three to six months (the specific period being determined at his/her discretion at the beginning of the term). If a Presiding Officer is unavailable to serve at his/her designated time, the Chairperson next on the roster in alphabetical order shall serve in his/her stead. If a Presiding Officer who has assumed the functions of the office becomes unable to serve for brief periods during his/her term, the necessary functions will be performed by the available Presiding Officer who most immediately preceded him/her.

2. During his/her term, the Presiding Officer directs the work and operation of the Board. The Presiding Officer, *inter alia*, shall:
 - (a) represent the Board and preside at the plenary and *ad hoc* meetings of the Board;
 - (b) supervise and implement time-limits described in Staff Rule 111.2;
 - (c) set alternative time-limits for the consideration of appeals;
 - (d) ensure the maximum dispatch of cases, *inter alia*, by utilizing the provisions of subsections III.K and III.N, below;
 - (e) designate Conciliating Officers;
 - (f) take all procedural decisions concerning individual appeals for which Panels have not yet been constituted, including but not limited to the following:
 - i. setting or extending time-limits for submission of supplementary material;
 - ii. ruling on the validity of submissions;
 - iii. determining whether a case should be considered as abandoned and when a case should be restored to the calendar;
 - iv. determining whether a request for a suspension under Staff Rule 111.2(f) falls within the competence of the Board (see Rule III.H.3 below).
 - (g) In exercising his or her functions under Staff Rule 111.2(d)(ii), the Presiding Officer shall give the highest priority in constituting a Panel to the need for maximum rotation of Chairpersons and Members in strict alphabetical order, taking into account the availability of individuals, the frequency of their participation, the gender distribution, their prior participation in conciliation, in disciplinary proceedings or other consideration of related matters, the possible conflict of interest or lack of objectivity and/or other factors which may further the interest of justice.
 - (h) The Presiding Officer shall be accountable to the Board in ensuring the application of the criteria set forth in sub-paragraph (g) above, and for that purpose shall submit a report on a quarterly basis, or at the end of his/her tenure, if sooner.
3. If the Presiding Officer deems it necessary, he or she may call a meeting of Chairpersons, to consider issues properly before them or matters drawn to their particular attention.

B. The JAB secretariat

The secretariat of the Board, established under Staff Regulation 11.1 and Staff Rule 111.1(g), supports the functioning of the JAB in an independent and confidential manner. In this connection, the secretariat assists and advises the Presiding Officer in the performance of his/her functions, and provides support to JAB Panels in their consideration of appeals against administrative decisions. The secretariat, *inter alia*, advises on substantive legal issues, including relevant precedent, and on technical and procedural matters pertaining to individual cases.

C. Meetings of the Board

1. The Presiding Officer shall convene an annual plenary session, normally during the month of February, upon ten working days' written Notice to the members for the purpose of considering general matters affecting the administration or operation of the Board.
2. An *ad hoc* plenary session may be convened by the Presiding Officer when, in his/her opinion, it is necessary to deal with a question affecting the administration or operation of the Board. An *ad hoc* plenary session may also be called by petition of at least 25% of the serving members of the Board. A written Notice of the convening of an *ad hoc* plenary session shall be given to the Members of the Board five working days in advance of the date of the opening of such a session.
3. Special meetings, under para. I.C. of these rules, shall be called upon ten working days' notice to the members.
4. Decisions, other than amendments to these rules (see paragraph I.C, above), shall be taken by a majority vote of those Board Members present and voting at any meeting at which there is a quorum (fifty percent plus one of the membership of the Board at that time).

III. PROCEDURES

A. Request for review

As the first step in the appeals procedure, a written request for review of the contested administrative decision must be submitted to the Secretary-General within two months of receiving notification of the decision (Staff Rule 111.2(a)). An appeal may not be filed prior to the request for administrative review.

B. Conciliation initiated under Staff Rule 111.2(a)

When the Secretary-General, in reviewing an administrative decision under Staff Rules 111.2(a), decides, with the consent of the staff member, to seek the assistance of a Chairperson or Member of the Joint Appeals Board designated by the Presiding Officer, with a view to reaching a conciliatory conclusion on the matter, the time-limit in filing an appeal shall be suspended pending the conclusion of the conciliatory effort. The conciliation proceedings should normally be completed within one month. If the parties are satisfied with the conclusion and the Secretary-General accepts the result, the matter shall not be entertained by the Joint Appeals Board. Otherwise the time-limits for submitting an application to the Joint Appeals Board shall be the same as stipulated in Staff Rule 111.2(a)(i) and (ii). If conciliation fails, the time-limit set forth in the Staff Rule 111.2(a)(ii) starts running.

C. Settlement initiated after the appeal has been filed

After the filing of an appeal with the Joint Appeals Board, if an amicable resolution of the matter is being pursued, time-limits for submission of material may be extended.

D. Filing an appeal [Staff Rule 111.2(a) and (b)]

A full statement of appeal, in accordance with rule III.J.1, below, shall be submitted to the Board, through its secretariat, within the applicable time-limits [see Staff Rule 111.2(a)(i)].

E. Incomplete statement of appeal

An incomplete statement of appeal will be accepted by the Board for the purpose of establishing the date of filing of the appeal. The secretariat of the Board will, upon receipt of an incomplete statement, request in writing that the appellant provide to the Board, within one month, a full statement of appeal, containing all of the elements described in rule III.J.1, below. If the appellant, without explanation, fails to submit a full statement of appeal within the month, the appeal shall be deemed to have been abandoned (see rule III.O.3, below), and shall be removed from the calendar.

F. Receivability of appeals

An appeal is receivable only if it complies with the time-limits set forth in Staff Rule 111.2(a) and (b), or if the Panel considering the appeal decides to waive the time-limits (see G. below).

G. Waiver of time-limits for late filing

1. The Panel constituted to consider the appeal shall decide, at its own discretion, whether to consider receivability as a preliminary issue or in conjunction with the whole appeal. In either situation the Panel may request statements, supporting evidence and comments relating specifically to this issue and shall decide, on the basis thereof, if “exceptional circumstances” justify a waiver of the time-limits under Staff Rule 111.2(e), bearing in mind that the onus of proving exceptional circumstances lies with the appellant.
2. Conciliation proceedings initiated during the review stage but not completed within the time-limit specified for review, shall constitute a valid ground for the Board’s waiver of time-limits for the filing of an appeal.
3. Similarly, the institution of proceedings, prior to the appeal, before the Panels on Discrimination and Other Grievances or before the corresponding machinery in UNICEF and UNDP shall normally constitute valid grounds for the Board’s waiver of time-limits for the filing of a request for review or of an appeal.

H. “Suspension of Action” procedure

1. Upon a request of the appellant, the Panel may, under Staff Rule 111.2(f), recommend to the Secretary-General the suspension of the administrative decision that is the subject of the appeal. As a first step, however, the Presiding Officer shall review the request to ascertain that:
 - (a) the administrative decision in question has not already been implemented; and
 - (b) the administrative decision is, in fact, the subject of the appeal.
2. If either III.H.1(a) or (b) above is not satisfied, the Presiding Officer shall reject the appellant’s request for suspension, with an explanation as to why the request cannot be entertained.
3. If the request for suspension meets the conditions of III.H.1(a) and (b) above, a Panel shall normally be constituted for the purpose of considering the request within one week of the receipt of the request. No additional written submissions are required; the parties may make oral statements. The Panel will limit its consideration to the issue of suspension. The case should not be considered on its

merits at this summary hearing. The Panel will submit its report and recommendations to the Secretary-General, whenever possible within three working days of the completion of its consideration. The findings of the Panel on a request for suspension shall not prejudice a later determination on the merits.

I. Written Submissions by the Parties

1. Each written submission and document shall be presented to the Board or Panel through its secretariat. All such material which is presented to the Board or Panel, either prior to or during the consideration of the case, shall be submitted as an original (where available) with six copies. Each copy shall be a true and complete copy of the original. The original and the required copies shall be submitted to the Secretary of the Panel for distribution to the other party, his/her representative, and to Panel members. When the original of a document is not available, the Panel may require that certified true copies be submitted. A Panel may require that any document be produced by the party in possession.
2. Submissions to the Board or Panel will normally be in English or French, the working languages of the United Nations Secretariat. The Presiding Officer or Panel may, in the interest of justice, authorize an appellant to make submissions in any other working language of the General Assembly where the circumstances so warrant. Any document submitted in connection with an appeal, not drawn up in one of the working languages of the United Nations, shall be accompanied by a certified translation into English or French.
3. A copy of each written submission and document furnished to the Board or Panel in connection with an appeal will generally be communicated by the JAB secretariat, upon receipt, to the other party. If a party or witness refuses to produce a document on the grounds of confidentiality, the Panel may demand its production for the limited purpose of determining whether its relevance overrides its confidentiality, without first transmitting a copy to the other party. Should it be so determined, a copy of such document, or only the relevant parts thereof, may be transmitted to the other party.
4. When defects in the written submissions do not affect the substance of the appeal, i.e., erroneous dates or typographical errors, the JAB secretariat, with notification to the submitting party, may make the necessary corrections.

J. The statement of appeal, the respondent's reply and observations

1. Statement of appeal: Each statement of appeal shall include:
 - (a) the name of the appellant and his or her present or former status with the United Nations;
 - (b) an identification, description and date of the administrative decision being contested and the terms of appointment and/or provisions of Staff Regulation or Rule which have not been observed;
 - (c) a statement of when the request for administrative review was submitted; copies of the request and the reply of the respondent, if any, shall be annexed;
 - (d) a clear statement of the relevant facts (in chronological order whenever appropriate);
 - (e) A description of the specific remedy requested;

- (f) the name of counsel representing the appellant, if any, (any subsequent selection or change of counsel must be immediately communicated to the Board);
 - (g) An index of all documents annexed (any document referred to in the text of the statement of appeal shall be annexed in full and numbered);
 - (h) A request for oral hearing, if desired;
 - (i) The signature of the appellant or of counsel, and the date of submission.
2. Failure by the appellant to comply with this rule may lead to the statement of appeal being treated as incomplete (see rule III.E, above).
 3. The respondent's reply: Staff Rule 111.2(g) provides that the representative of the Secretary-General shall submit a written reply within two months after the receipt of the appeal. Failure to submit in accordance with the time-limit specified may be dealt with as provided in rule III.N, below.
 4. The respondent's reply shall be transmitted to the appellant and/or counsel inviting written observations to be submitted within one month in respect of a staff member stationed in New York, or if elsewhere, within two months.

K. Additional submissions

1. In addition to the statement of appeal and the respondent's reply thereto, the proceedings before a Panel shall normally be limited under Staff Rule 111.2(h) to "brief statements and rebuttals" which may be made either orally or in writing. The Panel may accept additional written or oral submission from the parties. The Panel may also request the production of additional material or oral statement. The time-limit for written submissions by either party shall generally be no more than two weeks in respect of appellants stationed in New York or one month for appellants elsewhere.
2. Additional written submissions shall be limited so as to avoid repetition of previously presented information and shall be made in accordance with stipulated time-limits.
3. Additional written submissions and documents shall also conform to rules III.I.1, III.I.2, above.

L. Written Interrogatories

The Panel may request any necessary information from any party, witness or expert by written interrogatory.* The Panel shall have the discretion to decide whether it will seek such material through its secretary or whether it will request that it be obtained by one of the parties within a stated time-limit. Copies of the questions and answers constituting the written interrogatory and reply thereto shall be provided to the parties, each of whom will have the opportunity to comment thereon.

M. Extension of time-limits for submission of supplementary material

1. Time-limits for submission of supplementary material may be extended by the Panel upon a written request for an extension before the time-limit has expired, indicating the reason for the delay and the time required for the completion of the submission. Notice of such request shall be given to the other party.

**Oral testimony and participation at a hearing is discussed in rule IV.F.1-IV.F.4, below.*

2. Further extensions of time-limits for submission of additional written material may be granted where the interest of justice so warrants.
3. Only in exceptional circumstances will the consideration of a case be delayed for an extended period of time for the purpose of receiving written submissions. Such an extension will be granted only upon a showing that:
 - (a) such written submissions are absolutely essential and gross injustice would otherwise result, or
 - (b) the interest of justice would not otherwise be served, or
 - (c) the information cannot be presented orally.

N. Consideration of an appeal in the absence of a reply

The failure of the respondent to submit a reply within the time-limit will not delay the consideration of an appeal. If the Representative of the Secretary-General requests an extension of the time-limit for reasons stated, the Presiding Officer, upon notice to the appellant, may grant the request and set a new deadline. In the absence of such request, or at the expiration of any extension, a Panel shall be constituted to consider the appeal. During the course of its consideration of the appeal, the Panel shall determine how to obtain from the respondent any material or information it may require.

O. Abandonment of an appeal

1. It is the obligation of an appellant who intends to pursue his/her appeal to keep the Board informed of any change of address or telephone number.
2. If the Board makes two successive attempts to communicate with the appellant at the last known address and receives no response within a reasonable period of time, or if a communication is returned marked "addressee unknown", the Presiding Officer may deem the appeal to have been abandoned.
3. Where an appellant has submitted an incomplete appeal but has failed to submit a full statement of appeal within the specified time-limit, the appeal may be deemed to have been abandoned within a reasonable time thereafter.
4. An abandoned appeal may be restored upon adequate explanation. If the appeal was deemed abandoned for failure by the appellant to submit a full statement of appeal, any such motion to restore a case must be accompanied by the full statement of appeal.

P. Withdrawal of an appeal

An appellant may withdraw his/her appeal at any time prior to being notified that the Panel has submitted its report to the Secretary-General. Withdrawal of an appeal must be in writing, and signed by the appellant or counsel.

Q. Settlement of an appeal

1. An appeal may be settled at any stage in the proceedings prior to notification to the appellant that the Panel has submitted its report to the Secretary-General. Once the Panel has begun its consideration of the case, the parties may be granted, if they so request, an adjournment of the proceedings for the purpose of conducting settlement negotiations. If settlement has not been reached during that period, consideration will be resumed.

2. If a settlement is reached, the appellant or counsel shall submit a written statement to the Board or Panel that the parties have reached a settlement and are withdrawing the appeal.
3. As settlement efforts are deemed to be without prejudice, such efforts or the terms considered prior to the hearing, are inadmissible as evidence and may not be referred to in the course of the Panel's consideration of the appeal.

IV. CONSIDERATION OF THE APPEAL

A. Constitution of the Panel and notice to the parties

As soon as a Panel is constituted under Staff Rule 111.2(d), the composition of the Panel shall be notified to the parties in writing. As far as possible, the membership of the Panel shall be maintained to the conclusion of the appeal.

B. Disqualification of a Panel Member

A request by either party under Staff Rule 111.2(d)(iii) for disqualification of a member of the Panel shall be made in writing (by cable if necessary) within five working days of receipt of notice of the composition of the Panel, and shall state the reason for requesting such disqualification. If, however, either party becomes aware for the first time of information which it considers grounds for disqualification of a Panel member, after the five days have passed, it may then present such request. The decision on such requests shall be made by the Presiding Officer.

C. Meetings of the Panel

The Panel may meet either in Executive Sessions or hold hearings. At all meetings, the entire Panel and the Secretary must be present.

D. Request for hearing

1. Either party may request a hearing. Such request must be in writing, and shall be submitted, at the latest, upon receipt of notice of the composition of the Panel (by cable where necessary). The Panel shall decide whether or not to grant such request. It may also decide, on its own initiative, that a hearing is necessary.
2. In determining whether a hearing is required, the Panel will consider whether the written submissions have adequately covered the issues involved, whether the testimony of the parties, witnesses or experts would substantially add to the material being considered and whether relevant and necessary additional information could be adduced in the course of a hearing.

E. Notice of hearing

If a hearing is scheduled, notice of the date, time and place will be sent to the parties by the Secretary of the Panel. For continuation of a hearing, oral notice may be given followed by written confirmation.

F. Presentation at hearing

1. At a hearing (either on a preliminary issue or on the merits of the appeal), both parties must be invited to attend and participate.
2. At the hearing, in order to avoid repetition of material contained in the written submissions, except for an opening or closing presentation normally limited to ten

minutes, the parties shall be limited to the presentation of new material or the response to new material submitted by the other party, or to questions from the Panel. The Panel may determine relevance of new material and limit oral presentation accordingly.

3. A hearing may include presentations by the parties, and testimony by witnesses or experts (see rule IV.F.4. below). The Panel may call witnesses and experts on its own initiative. The Panel may also permit either of the parties to call witnesses and experts upon a showing that their testimony would be relevant.
4. The normal sequence of the hearing is as follows:
 - (a) The hearing is convened by the Chairperson.
 - (b) The appellant or the appellant's counsel makes an opening statement.
 - (c) The respondent makes an opening statement.
 - (d) The members of the Panel may ask questions at any point during or after the presentations.
 - (e) Witnesses or experts may be questioned by the members of the Panel and by the parties.
 - (f) Closing statements may be made, first by the respondent so as to permit the appellant or his/her counsel to have the opportunity to speak last.

The order of the presentations may be altered to accommodate special situations or requests, i.e., the appearance of witnesses or experts who are available during a limited period only. The Chairperson shall be responsible for the conduct of the proceedings, including conveying the rulings of the Panel.

G. The report of the Panel

1. In accordance with Staff Rule 111.2(n), the Panel's report and recommendation shall be submitted to the Secretary-General. The Secretary of the Panel will notify the appellant of the date on which the Panel's report was submitted to the Secretary-General. Any request in accordance with Staff Rule 111.2(p) for a copy of the Panel's report must be made in writing.
2. The report of the Panel constitutes the official record of the proceedings. It may be agreed to unanimously or by a majority of the Panel. In the latter case, the Panel member who disagrees with the majority position may prepare a dissenting opinion to be appended to the majority report.
3. Since, under Article 7(3) of the Statute and Rules of the United Nations Administrative Tribunal (UNAT), the designation of a case as "frivolous" (e.g., totally devoid of merit) has serious implications, such designation can be applied only by unanimous decision of the Panel considering the case. Once declared frivolous, a case cannot then be the subject of an application to UNAT. The unanimous designation of a case as frivolous renders it unreceivable by UNAT, under Article 7(3) of the Statute and Rules of UNAT. Accordingly, Panels shall act with caution in the application of this designation.

H. Travel expenses and Visas

The Board has no provision for travel expenses or issuance of visas.

Adopted on 5 March 1991 by the Joint Appeals Board in accordance with Staff Rule 111.1(e).