

Chapter III Human Resources

Sub-Chapter III.11 Conduct and Disciplinary Measures

III.11.1d Protection Against Retaliation Policy

10. Introduction

- 10.1 As an international public health organization, PAHO has the responsibility to conduct its work in an ethical and transparent manner. An organization's ethical climate is important because it can improve morale, enrich organizational commitment, and allow it to maintain the respect and trust of its partners, stakeholders, and beneficiaries.
- 10.2 While PAHO personnel are extremely loyal and work in the best interests of the Organization, there will be instances where people breach their ethical responsibilities and engage in fraud, corruption, harassment, or other forms of misconduct. Individuals who experience or witness this type of misconduct must feel safe to speak up and report their concerns. However, it is natural that people will only be comfortable speaking up if they have confidence in the policies and mechanisms the Organization has put in place and trust that their concerns will be taken seriously, that there will be accountability and, most importantly, that they will be fully protected from any form of retaliation.
- 10.3 This policy outlines the safeguards and assurances that PAHO provides to encourage people to raise legitimate and honest concerns without fear of retaliation and describes the actions that will be taken when retaliation claims arise.

20. Objective

- 20.1 The objective of this policy is to protect people who work in or conduct business with PAHO from retaliation when raising good faith concerns that impact the good governance, operations, interests or reputation of the Organization, or when cooperating in an investigation or audit. Assuring people who work for PAHO that they will be protected from retaliation will encourage them to report suspicions regarding illegal, unethical, or inappropriate behavior and will allow the Organization to take prompt action to address the situation.

30. Scope of application

- 30.1 This policy applies to any person who works for PAHO, irrespective of position, type of contract, or duration of appointment, including interns and volunteers, as well as people who previously worked in the Organization and anyone who has business dealings with PAHO, including contractors, vendors, and partners.

40. Protected Behavior

- 40.1 At the core of this policy is the need to protect people who come forward to report an issue that could have an adverse impact on the good governance or reputation of the Organization, its financial resources and interests, or the wellbeing of someone working in or associated with the Organization. This policy also protects people who have cooperated in an investigation or audit.
- 40.2 PAHO commits to protect from retaliation anyone who works in the Organization if they have:
 - 40.2.1 Reported suspected fraud, theft, loss of property, and/or improper use of resources to a supervisor or manager, the Investigations Office (INV) or any other member of PAHO's Integrity and Conflict Management System (ICMS),¹ or to any external oversight entity, governing body, or Member State;
 - 40.2.2 Submitted to INV a complaint of discrimination, harassment, sexual harassment, sexual exploitation and abuse, or retaliation;
 - 40.2.3 Solicited the advice or intervention of the Ethics Office (ETH), the Department of Human Resources Management (HRM) or the Ombudsman (OMB) to resolve a good faith concern that impacts the work environment or the wellbeing of anyone working in PAHO;
 - 40.2.4 Reported any other type of suspected misconduct or abuse of authority to a supervisor or manager, INV, or any other member of the ICMS;
 - 40.2.5 Cooperated in a PAHO investigation or audit;
 - 40.2.6 Filed an appeal with the PAHO Board of Appeal or a grievance with the International Labor Organization Administrative Tribunal.

50. What Constitutes Retaliation

- 50.1 Retaliation occurs when an unfavorable employment action is taken or threatened to be taken against someone without just cause and solely because that person engaged in a protected behavior, as described above. Retaliation is a separate act of misconduct and a violation of the Organization's regulations, rules and policies, including this policy.
- 50.2 There are a range of actions and comments that may constitute retaliation. Examples may include, but are not limited to, the following actions or threats of such action:
 - 50.2.1 Termination or suspension of employment;
 - 50.2.2 Non-renewal of contract;
 - 50.2.3 Demotion or denial of opportunities for promotion;

¹ The ICMS is composed of the Ethics Office, Office of the Ombudsperson, Department of Human Resources Management, Office of the Legal Counsel, Office of Internal Audit, Information Security Officer, Investigations Office, and the PAHO Board of Appeal. In addition, the PAHO Staff Association participates in the meetings of the ICMS and serves as an additional resource for staff in matters of integrity and conflict management.

- 50.2.4 Transfer to a different job, department, or work location;
- 50.2.5 Withholding pay increases, entitlements, or allowances;
- 50.2.6 Unfavorable performance evaluations;
- 50.2.7 Offensive comments or remarks;
- 50.2.8 Loss of relationships or isolation;
- 50.2.9 Removal of job duties, responsibilities, and/or travel opportunities;
- 50.2.10 Exclusion from a team or project;
- 50.2.11 Withholding of funding;
- 50.2.12 Withdrawal of delegated authority.

60. What Does Not Constitute Retaliation

- 60.1 The legitimate application of rules, policies, and procedures, as well as the proper exercise of managerial authority, does not constitute retaliation. In addition, retaliatory actions do not include behaviors or reasonable actions that are taken to further the interests of the Organization or to encourage a satisfactory level of performance, attendance, and/or conduct.
- 60.2 If an individual did not engage in a protected behavior, as outlined above, any unfavorable employment action taken against that individual will not be considered retaliation under this policy.

70. Duty to Report Suspected Wrongdoing and Ethical Concerns

- 70.1 Everyone who works for PAHO has a duty to report, in good faith, suspected wrongdoing, ethical concerns, or any other activity that could undermine the Organization's reputation, integrity or credibility. In exercising this responsibility, individuals must feel that they can submit information freely and without reservation, that their identity and the information they provide will remain confidential and will not be disclosed except on a need-to-know basis, and that they will be protected by the Organization.

80. Duty to Cooperate in an Investigation or Audit

- 80.1 Everyone who works for PAHO is required to cooperate in investigations and audits. This includes making themselves available to meet with investigators and auditors, providing truthful and relevant information, and answering pertinent and reasonable questions during an investigation or audit. In fulfilling this duty, individuals must feel that they can divulge information in confidence knowing that their identity and the information they provide will be kept confidential and will not be disclosed except on a need-to-know basis, and that they will be protected by the Organization.

90. Prohibition Against Retaliation

- 90.1 Pursuant to this policy, all individuals working in PAHO are expressly prohibited from engaging in any form of retaliation against any person who engages in a protected behavior.

100. Protection Against Retaliation

- 100.1 Since everyone who works in PAHO has a duty to safeguard the interests and human and financial resources of the Organization, report suspected wrongdoing, and cooperate in investigations and audits, the Organization has a corresponding responsibility to protect these individuals from any form of retaliatory action in the workplace.
- 100.2 Contractors, vendors, and partners who, in good faith, report suspected wrongdoing or raise ethical concerns involving people who work in PAHO, or who cooperate in an investigation or audit, are also protected, to the extent possible, against retaliation under this policy.
- 100.3 A person who reports suspected wrongdoing or raises ethical concerns in good faith will be protected from retaliation even if the information provided turns out to be mistaken or is unsupported by the evidence.
- 100.4 If it is established that someone has intentionally submitted a report of wrongdoing that is false or misleading, or if the report was made maliciously or in bad faith, disciplinary action may be taken against the person concerned.
- 100.5 Moreover, engaging in a protected behavior does not shield an individual from disciplinary and/or administrative action if it is determined that the person was involved in an activity and committed misconduct.

110. Anonymous Disclosure

- 110.1 To assure complete protection, people inside and outside the Organization may remain anonymous when reporting suspected wrongdoing or raising ethical concerns by using *PAHO's Help Line* at www.pahohelpline.org

120. Training

- 120.1 The Ethics Office provides training to promote a “speak up” culture where personnel can raise issues freely without fear of retaliation. This training raises awareness about what constitutes retaliation and what actions are a legitimate exercise of managerial/supervisory authority and underscores the Organization’s commitment to protect people who raise good faith concerns to safeguard the interests and reputation of the Organization.

130. Seeking Protection or Advice Regarding Retaliation

- 130.1 The Ethics Office plays a key role in protecting PAHO personnel from retaliation and in ensuring their well-being. In instances where individuals who suspect wrongdoing require guidance or are concerned about the possibility of retaliation, ETH offers impartial advice and works with them to ensure that their concerns are appropriately addressed while minimizing the possibility of retaliation.
- 130.2 ETH also provides support to individuals who are concerned that they may be subjected to retaliation because they have already engaged in a protected behavior. ETH may take proactive measures, on its own initiative or at the request of a concerned individual, to prevent opportunities for retaliation. These interim protective measures could include:

- 130.2.1 Recommending that the concerned individual, and/or the person against whom the disclosure has been made, be temporarily removed from their position(s), either through a temporary reassignment or a period of special leave;
 - 130.2.2 Issuing a no-contact directive to avoid any interactions between the concerned individual and the person against whom the disclosure has been made;
 - 130.2.3 Monitoring the individual's workplace situation to prevent any retaliatory action from being taken.
- 130.3 The Ethics Office can be contacted in various ways:
- 130.3.1 By e-mail at ethics@paho.org;
 - 130.3.2 Through the PAHO Helpline, including anonymously, at www.pahohelpline.org;
 - 130.3.3 By telephone at 202-974-3929;
 - 130.3.4 Through a Teams or Zoom virtual call;
 - 130.3.5 In person.
- 130.4 Alternatively, a person who is concerned that they may be subjected to retaliation because they engaged in a protected behavior or believes they have been subjected to retaliatory action for engaging in protected behavior may informally and confidentially discuss their concerns with PAHO's Ombudsman, who will provide informal services that may include policy orientation and explaining and evaluating the available options to address the concerns that have been raised. ²
- 130.5 The Ombudsman can be contacted in various ways:
- 130.5.1 By e-mail at ombudsman@paho.org;
 - 130.5.2 By telephone at 202-974-3586;
 - 130.5.3 Through a Teams or Zoom virtual call;
 - 130.5.4 In person.

140. Submitting a Retaliation Complaint

- 140.1 Anyone can submit a retaliation complaint to INV. In most cases, a complaint will be presented by the person who claims that retaliatory action has been taken against them. However, a retaliation complaint may also be submitted by any other concerned person or entity, including a staff association representative.
- 140.2 An individual who wishes to submit a retaliation complaint should do so in writing directly with INV. INV can be contacted in various ways:
 - 140.2.1 By e-mail at investigations@paho.org;
 - 140.2.2 Through the PAHO Help Line, including anonymously, at www.pahohelpline.org;

² While discussions are encouraged, communications made to the Ombudsman are not considered formal notice to the Organization. The Ombudsman does not act as agent for the Organization and does not accept notice on its behalf. However, the Ombudsman may refer individuals to the appropriate office where formal notice can be provided.

- 140.2.3 By telephone at 202-974-3105;
 - 140.2.4 By Teams or Zoom virtual call;
 - 140.2.5 In person.
- 140.3 To be able to address any concerns in a timely manner, a retaliation complaint should be submitted to INV as soon as practicable, but no later than one year from the date on which the alleged retaliatory act took place or was threatened to be taken. In addition, the protected behavior must have occurred within two years from the date that the alleged retaliatory act took place.
- 140.4 A person who submits a retaliation complaint under this policy must provide information or documentation to show that they or someone else:
- 140.4.1 Engaged in a protected behavior;
 - 140.4.2 Suffered an unjustified and unfavorable employment action; and
 - 140.4.3 Reasonably believes that the alleged retaliatory act resulted from engaging in a protected behavior.
- 140.5 Submitting a retaliation complaint does not have the effect of delaying the imposition of an administrative or disciplinary action, if any, against which the retaliation complaint has been made.

150. Investigating Retaliation Complaints

- 150.1 Investigations into retaliation complaints will be carried out in accordance with PAHO's policies and practices for conducting workplace investigations.
- 150.2 When a retaliation complaint has been submitted to INV, the person who allegedly took retaliatory action must demonstrate that they would have taken the same action regardless of whether the person alleging retaliation engaged in a protected activity.
- 150.3 Appropriate interim protective measures may be taken at the discretion of the Organization to safeguard the interests of someone who has submitted a retaliation complaint. Such measures may include suspending the implementation of the action or decision at issue, temporarily reassigning the individual who submitted the complaint to a different office or position or, in exceptional circumstances, placing the person on special leave with full pay.

160. Remedies

- 160.1 If retaliation is established, appropriate action will be taken by the Organization to rectify the situation in consultation with the individual concerned. Such action may involve rescinding the retaliatory action, including reinstatement. If deemed necessary, it may also involve the reassignment or transfer of the individual to another work location or assignment for which the person is qualified at the same grade and pay level.

170. Disciplinary Measures

- 170.1 Retaliation constitutes misconduct, which will result in disciplinary proceedings and the imposition of disciplinary measures, which may include termination of appointment or contract, and/or other appropriate action in accordance with PAHO's regulations, rules, and policies.

180. Right of Recourse

- 180.1 A person who submits a retaliation complaint has the right to challenge a decision regarding the merits of their complaint pursuant to the applicable internal recourse rules and mechanisms of the Organization³ or the terms and conditions of their contract.

190. Questions

- 190.1 Any questions regarding the application of this policy should be submitted to the Ethics Office for guidance and advice.

³ Section 12 of PAHO's Staff Rules sets out the appeal rights of PAHO staff members.