

Policy Title	Protection against Retaliation
Previous title (if any)	Protection against Retaliation for Reporting Wrongdoing or for Cooperating with an Authorized Fact-Finding Activity
Policy objective	The purpose of this document is to set forth UNFPA's policy on prevention of and protection against retaliation and to establish a framework and a procedure for the protection of UNFPA personnel from retaliation, and to regulate permissible disclosure of allegations of wrongdoing to entities outside of UNFPA.
Target audience	All UNFPA personnel
Risk control matrix	Prevention and Control activities that are part of the process are detailed in the <a href="#">Risk Control Matrix</a>
Checklist	n/a
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Policy owner unit	Ethics Office
Approval	<a href="#">Policy approval</a>

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## I. Purpose

1. The purpose of this document is to set forth UNFPA's policy on prevention of and protection against retaliation and to establish a framework and a procedure for the protection of UNFPA personnel from retaliation, and to regulate permissible disclosure of allegations of wrongdoing to entities outside of UNFPA.
2. The terms of this policy apply to all UNFPA personnel, unless specifically indicated otherwise.

### A. Definitions

3. "Fact-finding activity" within this policy means any authorized audit, investigation, inspection, programme evaluation, or management evaluation under Staff Rule 11.2.
4. "Proscribed practices" means corrupt, fraudulent, collusive, coercive, obstructive and unethical practices. These terms are further defined in the UNFPA Oversight Policy approved by the UNFPA Executive Board.
5. "Retaliation" within this policy means any direct or indirect detrimental action recommended, threatened or taken because an individual reported wrongdoing in good faith or cooperated with an authorized fact-finding activity. When established, retaliation constitutes wrongdoing.
6. "UNFPA personnel" includes staff members (regardless of type or duration of appointment) and the following non-staff personnel: UN Volunteers, service contractors, individual consultants and interns.
7. "Wrongdoing" is defined in the UNFPA Oversight Policy, approved by the UNFPA Executive Board. Wrongdoing means: (i) Misconduct, *i.e.*, the failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant; (ii) A failure by a vendor (for instance, a legal person such as an implementing partner or a vendor, or an individual independent contractor such as a consultant) to comply with his or her obligations. The term includes proscribed practices.

## II. Policy

8. All UNFPA personnel have a duty to report wrongdoing and to cooperate fully with any authorized fact-finding activity. Those who do so in good faith have the right to be protected from retaliation. It is, thus, the policy of UNFPA to foster a work environment free from retaliation and to take swift and appropriate action in cases where retaliation has occurred. Staff must also complete the mandatory online ethics course, "Ethics and Integrity at the United Nations Population Fund".
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**A. Reporting alleged wrongdoing**

Reporting wrongdoing through established mechanisms/cooperating with fact-finding activities

10. As provided in the UNFPA Disciplinary Framework, allegations of wrongdoing shall be reported to the Director, Office of Audit and Investigation Services (“OAIS”). The report may also be made by UNFPA personnel to their manager, who shall forward the report to the Director, OAIS, without delay.

Disclosure of wrongdoing to entities external to UNFPA

11. Notwithstanding Staff Regulation 1.2 (i) in relation to staff members, protection against retaliation will be extended to UNFPA personnel who report wrongdoing to an entity or individual outside of the established internal mechanisms, where the criteria set out in subparagraphs (a), (b) and (c) below are satisfied<sup>1</sup>:

- (a) Such reporting is necessary to avoid:
  - (i) A significant threat to public health or safety; or
  - (ii) Substantive damage to the operations of UNFPA or the United Nations; or
  - (iii) Violations of national or international law; and
- (b) The use of internal mechanisms is not possible because:
  - (i) At the time the report is made, the individual has grounds to believe that he/she will be subjected to retaliation by the person(s) to whom he/she should report wrongdoing, pursuant to the established internal mechanisms; or
  - (ii) It is likely that evidence relating to the suspected wrongdoing will be concealed or destroyed if the individual reports to the person(s) to whom he/she should report, pursuant to the established internal mechanisms; or
  - (iii) The individual has previously reported the same information through the established internal mechanisms, and the Organization has failed to inform the individual in writing of the status of the matter within six months of such a report; and

<sup>1</sup> This is notwithstanding United Nations Staff Regulation 1.2(i) (as amended from time to time), which provides: “Staff members shall exercise the utmost discretion with regard to all matters of official business. They shall not communicate to any Government, entity, person or any other source any information known to them by reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Secretary-General. These obligations do not cease upon separation from service.”

(c) The individual does not solicit or accept payment, or other benefit, from any party, for making such a report.

12. When circumstances require that such reports be made outside of the established UNFPA internal mechanisms, preference shall be given to making the report to the United Nations Office of Internal Oversight Services (“OIOS”). In case (a) (i) above, it may be appropriate to make the report, *e.g.*, to a public emergency service provider.

### **B. Prohibition of retaliation**

13. Retaliation is prohibited. Retaliation committed by staff members constitutes misconduct which will lead to disciplinary action and/or transfer to other functions in the same or a different office. Retaliation committed by UNFPA personnel other than staff members constitutes a breach of their contract with UNFPA and will lead to termination of contract and/or other remedies provided for in the relevant contract.

### **C. Protection from retaliation**

14. UNFPA personnel have the right to be protected from retaliation. Protection against retaliation applies to any UNFPA personnel who:

(a) Reports wrongdoing. The UNFPA personnel must make the report in good faith and must submit information or evidence to support a reasonable belief that the wrongdoing has occurred; or

(b) Cooperates in good faith with a duly authorized fact-finding activity.

15. The dissemination of unsubstantiated rumors or the submission of an allegation or report of wrongdoing that is intentionally false or misleading is not a fact-finding activity under this policy. Intentionally making a false report, verbally or in writing, constitutes wrongdoing for which disciplinary measures or contract remedies, as applicable, may be imposed.

16. The legitimate application of regulations, rules or administrative policies, issuances or procedures, or the mere expression of disagreement, admonishment, criticism or a similar expression regarding work performance, conduct or related issues within a supervisory or similar relationship, do not constitute retaliation from which protection may be sought under this policy. However, in applying such regulations, rules and administrative policies and procedures, UNFPA management must be able to show by clear and convincing evidence that the same action would have been taken absent the protected activity.

### **D. Prevention of retaliation**

17. OAIS will inform the Ethics Office of any fact-finding activity that comes to its attention that OAIS identifies as posing a retaliation risk. OAIS will provide this

information to the Ethics Office only upon the consent of the UNFPA personnel who made the report.

18. When informed by OAIS that a UNFPA personnel is at risk of retaliation, the Ethics Office will consult with the individual on appropriate retaliation prevention steps. With the individual's consent, such action may include engagement by the Ethics Office with the individual's senior management to ensure monitoring of the workplace situation for an appropriate period of time with a view to preventing any retaliatory action against the individual.

### **III. Procedures for addressing retaliation**

#### **A. Informal means of addressing retaliation:**

19. UNFPA encourages the informal resolution of conflicts. Therefore, UNFPA personnel who believe they have been subjected to retaliation may address the matter, at their discretion, by contacting the Funds and Programmes Ombudsman to seek a resolution of the matter through individual consultation or with mediation between parties. The UNFPA personnel may also request a third person, acceptable to both parties, to mediate.

20. UNFPA personnel have the right, at any time, to submit a formal complaint on retaliation to any available mechanisms.

#### **B. Formal complaint of retaliation:**

##### The UNFPA Ethics Office:

21. A formal complaint of retaliation shall be made to the UNFPA Ethics Office. The Ethics Office shall maintain a confidential record of retaliation complaints received.

##### Filing a formal retaliation complaint:

22. Any UNFPA personnel who believe that they are the victim of retaliation must submit a formal complaint no later than six months after the date on which the personnel knew, or in the opinion of the Ethics Office, should have known, of the alleged act of retaliation. If the complaint alleges a chain of acts of retaliation, the complaint must be filed within six months of the most recent alleged act of retaliation. The Ethics Office may waive the aforementioned time limit in exceptional circumstances.

23. The retaliation complaint may be made in person, by telephone or e-mail ([ethics.office@unfpa.org](mailto:ethics.office@unfpa.org) or +1-212-297-5044). The Ethics Office may afterwards request that a written and signed complaint be submitted. Complainants (*i.e.*, a UNFPA personnel who submits a retaliation complaint) should forward all information and documentation available to them to support their complaint to the UNFPA Ethics Office as soon as possible.

Review by the UNFPA Ethics Office:

24. The UNFPA Ethics Office will seek to complete its preliminary review within 30 calendar days of receiving all information requested.
25. All UNFPA personnel are required to cooperate at all times with the Ethics Office and provide access to all records and documents requested by the Ethics Office, except for medical records that are not available without the express consent of the personnel concerned.
26. In accordance with ST/SGB/2007/11 entitled “[United Nations system-wide application of ethics: separately administered organs and programmes](#)” (as amended), if the Ethics Office does not formally consider the complaint within 45 calendar days, the UNFPA personnel may then refer the matter in writing to the Chairperson of the Ethics Panel of the United Nations (“EPUN”). The Chairperson of EPUN is the Director of the UN Ethics Office, and may be reached at [ethicsoffice@un.org](mailto:ethicsoffice@un.org) or +1-917-367-9858.

The UNFPA Ethics Office’s determination and recommendation(s):

27. The Ethics Office will conduct a preliminary review of the complaint to determine if:
- (a) the complainant engaged in a protected activity;
  - (b) the complainant experienced, or was threatened with, one or more detrimental actions; and
  - (c) there is a *prima facie* case that the protected activity was a contributing factor in causing the detrimental action or threat of detrimental action.

A detrimental action is one that negatively affects (or is intended to negatively affect) a person’s working conditions or employment status. A threat to a person’s personal safety or security may be considered a detrimental action as well.

28. To complete its preliminary review, the Ethics Office may:
- (a) Interview the complainant;
  - (b) Interview some or all of the people whom the complainant identifies as having relevant information;
  - (c) Request and review documentary and other evidence, which may be obtained from the complainant, witnesses, and/or officials at UNFPA; and/or
  - (d) Obtain information from other sources as necessary.
29. The Ethics Office shall inform any person contacted in relation to a retaliation complaint of the confidential nature of the complaint.

30. The Ethics Office preliminary review is not an investigation. Therefore, at the preliminary review stage, the Ethics Office shall not interview or contact the subject of any retaliation complaint, or disclose to the subject the existence of any retaliation complaint.

31. Following its preliminary review, should the Ethics Office determine that a *prima facie* case or threat of retaliation exists, it shall refer the matter in writing to OAIS for investigation and will promptly notify the complainant in writing that the matter has been referred. OAIS will seek to complete its investigation and submit its investigation report to the Ethics Office within 120 calendar days. OAIS will also inform the subject that OAIS has concluded its investigation and provided its report to the Ethics Office.

32. Pending the completion of the investigation, the Ethics Office may recommend appropriate measures to safeguard the interests and safety of the complainant, including but not limited to temporary suspension of implementation of the action reported as retaliatory and, in consultation with the complainant, temporary reassignment of the complainant or placement of the complainant on special leave with full pay. The Ethics Office may recommend similar measures regarding the subject of the retaliation complaint, in order to safeguard the interests of the complainant.

33. Where, in the opinion of the Ethics Office, there may be a conflict of interest in OAIS conducting the investigation, the Ethics Office may recommend to the Executive Director that the complaint be referred to an alternative investigating mechanism.

34. Once the UNFPA Ethics Office has received the investigation report from OAIS (or alternative investigating mechanism), it will promptly inform the complainant in writing of the outcome of the investigation, conduct an independent review of the investigation report, and make its recommendations on the case to the UNFPA Legal Adviser, with a copy to the Executive Director, and with copies and/or other appropriate notice to other concerned officials of UNFPA as needed. The Ethics Office may recommend that:

- (a) The Executive Director determine that retaliation has occurred, and that disciplinary action or contract remedies, as applicable, should be taken against the retaliator; or
- (b) The Executive Director determine that retaliation has not occurred.

35. The Ethics Office may also conclude that the results are inconclusive or require further action, and may recommend the taking of further or remedial action. The Ethics Office shall clarify to the Executive Director and OAIS where it disagrees with any significant element of the investigation report.

36. If the Ethics Office finds that there is no credible case of retaliation, but finds that there is an interpersonal or similar problem within a particular office, the Ethics Office will

advise the complainant of informal mechanisms for conflict resolution in UNFPA, such as the Funds and Programmes Ombudsman.

37. If the Ethics Office finds that there is a managerial problem based on the preliminary review of the complaint or the record of complaints relating to a particular division or office, or based on the investigation results, it will advise the head of the division or office concerned, the Director of the Division for Human Resources, and the Executive Director.

38. In accordance with ST/SGB/2007/11 (as amended), if, following a final determination by the UNFPA Ethics Office of a matter referred to it by a UNFPA personnel, the person wishes to have the matter reviewed further, he/she may refer the matter in writing to the Chairperson of EPUN. It is suggested that such a referral occur within 30 days of receipt of the final determination of the UNFPA Ethics Office. The Chairperson, after consultation with the EPUN, may then undertake his/her own independent review of the matter and provide a report to the Executive Director with a copy to the Legal Adviser.

Protection of the UNFPA personnel who suffered retaliation:

39. If retaliation against a UNFPA personnel is established, the Executive Director may, after taking into account the recommendations made by the Ethics Office or other concerned office(s) and after consultation with the complainant, take appropriate measures to rectify the negative consequences suffered as a result of the retaliatory action. Such measures may include, but are not limited to, the rescission of the retaliatory decision, contract renewal or extension, changes to a person's performance appraisal document, change of supervisor, reinstatement, and/or counseling and support. The Executive Director may decide to transfer the individual who suffered retaliation to another office or function for which she/he is qualified (upon her/his agreement).

40. The Executive Director shall inform the complainant of:

- (a) the date the investigation concluded;
- (b) actions taken by UNFPA to protect the complainant;
- (c) actions taken regarding the retaliator (upon receiving an agreement to maintain confidentiality of the information); and
- (d) other management actions taken in connection with the finding of retaliation.

Review of administrative decisions under chapter XI of the Staff Rules:

41. Staff members are reminded that they may seek to challenge any administrative decision that they consider to be retaliatory under chapter XI of the Staff Rules, starting

with a request for management evaluation. Such recourse must comply with the deadlines specified under those Rules.

42. Recommendations of the Ethics Office and the Chairperson of the EPUN under the present policy do not constitute administrative decisions and are not subject to challenge by staff members under chapter XI of the Staff Rules. The decision of the Executive Director on a recommendation from the Ethics Office or the Chairperson of the EPUN will constitute a contestable administrative decision under chapter XI of the Staff Rules if it has direct legal consequences affecting the terms and conditions of appointment of the staff member, and may be contested by staff members within the deadlines specified under those Rules, starting with a request for management evaluation.

#### **IV. Other provisions**

43. The procedures contained in this policy are established without prejudice to the right of the relevant officials of UNFPA to take action on their own initiative to prevent and investigate retaliation or to impose disciplinary measures or other contract remedies, as applicable, against UNFPA personnel engaged in retaliation.

44. Any reprisal against a vendor or an implementing partner, or their employees, agents or representatives or any other individual engaged in any dealings with UNFPA, if established by OAI, will be considered wrongdoing that will lead to disciplinary or other appropriate action. Reports of such wrongdoing shall be made directly to OAI. UNFPA cooperates with other UN organizations as needed on retaliation complaints involving personnel of other UN organizations.

45. This revised policy enters into force on the day it is issued.

#### **V. Process Overview Flowchart**

46. No overview flowchart applicable

#### **VI. Risk Control Matrix**

Risk control matrix may be found [here](#).