**APPENDIX B**

**Policy and Conflict Resolution System for Prevention and Elimination of All Forms of Workplace Harassment**

1. Introduction
2. Guiding Principles

1. Legal Framework
2. Definitions and Abbreviations
3. Scope
4. Workplace Harassment
5. Sexual Harassment
6. Preventive Measures
7. Proactive Measures
8. Confidentiality
9. Preliminary Measures
10. The Informal Process
11. The Formal Process
12. Wrongful Accusations
13. Advisory Committee on Disciplinary Measures, Hearing and Reconsideration Processes
14. Referral to Local Authorities
15. Financial liability
16. Delegates and Other Persons over whom the General Secretariat has No Control and Authority to Take Disciplinary Action
17. Annual Information Circular
18. **Introduction**
    1. This Policy is intended to increase awareness of unacceptable behavior to prevent the occurrence of Workplace Harassment and to deal constructively with any allegations of Workplace Harassment that may arise.
    2. This Policy identifies two lines of organizational action: preventive measures, which introduce safeguards to prevent or eradicate Workplace Harassment; and proactive measures, which establish roles and responsibilities of the General Secretariat of the Organization of American States (GS/OAS), Staff Members, Non-staff Personnel and Managers and Supervisors with respect to complaints and cases of Workplace Harassment.
    3. The foregoing measures are supplemented in this Policy by a description of the features of a conflict resolution system that is intended to take into account the interests of the parties in a conflict, promote constructive dialogue, achieve better collaboration, and appropriately manage conflict by providing alternatives to resolve Workplace Harassment issues and grievances.
19. **Guiding Principles**

1. **Respect and dignity**: The GS/OAS strives for a positive professional work environment in which every Staff Member and Non-staff Personnel is treated with respect and dignity.
2. **Harassment-free environment**: Staff Members and Non-staff Personnel have the right to work in a harassment-free and respectful environment. Harassment is any form of unwanted and unwelcome behavior, which may range from mildly unpleasant remarks to physical violence.
3. **Equal treatment and non-discrimination**: Staff Members and Non-staff Personnel are expected to behave with tolerance, consideration, mindfulness and respect toward others. **Discrimination** is any unfair or unequal treatment or arbitrary distinction based on certain prohibited grounds (such as race, religion, color, creed, age, disability, ethnic origin, physical attributes, sexual orientation, or gender identity).
4. **Confidentiality**: The processes governed by this Policy shall be kept discreet and confidential.
5. **Privileges and immunities**: OAS Member States grant the GS/OAS certain privileges and immunities with respect to the work of Staff Members and Non-staff Personnel in their official capacities. Staff Members and Non-staff Personnel must be especially careful not to abuse these privileges and immunities, and never use or attempt to use them for their own personal benefit. The GS/OAS is committed to cooperating with the authorities of Member States in investigating any violations and facilitating proper administration of justice whenever necessary.
6. **Due process**: The processes governed by this Policy shall safeguard the rights of any person involved in a Workplace Harassment claim process. All processes shall be in conformance with the applicable internal rules and procedures, and shall follow the appropriate legal steps.
7. **Fairness and impartiality**: All processes governed by this Policy will be fair, and any person involved in a Workplace Harassment claim will be given notice of the relevant process and an opportunity to be heard. Workplace Harassment processes shall not be unreasonable, [arbitrary](http://legal-dictionary.thefreedictionary.com/Arbitrary), or capricious, nor motivated by intent to harass, embarrass, torment or otherwise injure another person.
8. **Legal Framework**
9. Article 3 (l) of the OAS Charter: “The American States proclaim the fundamental rights of the individual without distinction as to race, nationality, creed, or sex.”
10. Article 45 (a) of the OAS Charter: “All human beings, without distinction as to race, sex, nationality, creed, or social condition, have a right to material well-being and to their spiritual development, under circumstances of liberty, dignity, equality of opportunity, and economic security.”
11. Article 137 of the OAS Charter: “The Organization of American States does not allow any restriction based on race, creed, or sex, with respect to eligibility to participate in the activities of the Organization and to hold positions therein.”
12. Article 41.b. of the General Standards: “Persons shall be selected for appointment as staff members without regard to race, creed, or sex.”
13. Staff Rule 104.8 (a)ii, Selection Criteria, also provides that recommendations made to fill vacancies shall be made without regard to race, creed, or sex.
14. Staff Rule 101.8 prohibits Workplace Harassment.
15. Staff Rule 101.10 (Executive Order No. 14-3) governs the Procedures for Whistleblowers and Protections Against Retaliation.
16. The Code of Ethics (Executive Order No. 12-3), Section II, regulates the relationship with GS/OAS colleagues and other persons, and at Section (D), prohibits Workplace Harassment.
17. Article 24 of the American Convention on Human Rights.
18. Articles 1, 2 and 3 of the Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance.[[1]](#footnote-1)
19. Articles 1, 2 and 3 of the Inter-American Convention against All Forms of Discrimination and Intolerance.
20. Articles 1, 2, 3, 4, and 6.a of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará).
21. Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): “For the purposes of the present Convention, the term ’discrimination against women’ shall mean ’Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field’.”
22. General Recommendation No. 19, 11th session 1992, “Violence against women,” by the Committee on the Elimination of Discrimination against Women, CEDAW.
23. **Definitions and Abbreviations**

For the purposes of this Policy, the following definitions apply:

1. **Prohibited Conduct**:Any form of Workplace Harassment, including Sexual Harassment, at the workplace or in connection with work is prohibited, whether the Prohibited Conduct takes place in the workplace, in the course of official travel and mission, or in other settings in which it may have a direct impact on the workplace. Staff Members or Non-staff Personnel responsible for conduct that can be construed as Workplace Harassment will be subject to administrative or disciplinary measures.
2. **Abuse of Authority**: The improper use of a position of influence, power or authority by an individual against a colleague or group of colleagues. This behavior is particularly serious when an individual misuses his/her influence, power or authority to negatively affect the career or employment conditions (including - but not limited to - appointment, assignment, contract renewal, performance evaluation or promotion) of another. It can include a one-off incident or a series of incidents. Abuse of Authority may also include — but is not limited to — misuse of power that creates a hostile or offensive work environment, and the use of intimidation, threats, blackmail or coercion.
3. **Retaliation**: As defined by Staff Rule 101.10 (b) (vi) (Executive Order No. 14-03 “Procedures for Whistleblowers and Protections Against Retaliation”), Retaliation is a direct or indirect adverse action or omission recommended, threatened, or taken by any Staff Member against a Whistleblower because the Whistleblower is perceived as providing, assisting in providing, or is preparing to provide evidence to an Appropriate Authority about Misconduct. Such threats and adverse actions include but are not limited to dismissal, suspension, reassignment of duties, Workplace Harassment, refusal to employ or contract, or other conduct that chills or impedes activity protected by this Staff Rule. When established, Retaliation in and of itself constitutes serious misconduct which may lead to disciplinary measures as specified in Chapters X and XI of the Staff Rules.
4. **Malice**: Any action, conduct, or spoken word taken with reckless disregard for the harm, annoyance, alarm, or substantial emotional distress they may cause or with the specific and primary intent to annoy, alarm, or cause substantial emotional distress.
5. **Staff Member**: Includes all human resources of the GS/OAS as set forth in Article 17 (a) of the General Standards.
6. **Non-staff Personnel**: Includes all human resources of the GS/OAS as set forth in Article 17 (b) of the General Standards.
7. **Managers and Supervisors**: Any person whose tasks include, among others, supervising and evaluating Staff Members and Non-staff Personnel’s performance of official duties, work assignments, appointments, etc.
8. For the purposes of this Policy, the following abbreviations apply:

OAS: Organization of American States.

GS/OAS: General Secretariat of the Organization of American States.

OAS Charter: Charter of the Organization of American States.

General Standards: General Standards to Govern the Operations of the General Secretariat.

Staff Rules: Staff Rules of the GS/OAS.

DHR: Department of Human Resources.

DLS: Department of Legal Services.

OIG: Office of the Inspector General.

ACSP: Advisory Committee on Selection and Promotion.

SIAC: Staff Incentive Awards Committee.

PERC: Performance Evaluation Review Committee.

ACDM: Advisory Committee on Disciplinary Measures.

1. **Scope**
2. This Policy applies to all Staff Members and Non-staff Personnel.

Complaints of Workplace Harassment may be made by any Staff Member or Non-staff Personnel, or by any other person who may have been subject to Workplace Harassment on the part of a Staff Member or Non-staff Personnel.

1. This Policy applies to harassment that occurs at the workplace or in connection with work, whether it takes place in the workplace, in the course of official travel and mission, or in other settings in which it may have a direct impact on the workplace.
2. If a Staff Member or a Non-staff Personnel believes that he/she has been a victim of Workplace Harassment on the part of a representative, employee, or agent of a Member State, of a Permanent Observer, or of a Civil Society organization, or by any other person who is neither a Staff Member nor a Non-staff Personnel, the alleged victim may have access to the specific measures provided at Section XVIII of this Policy.
3. **Workplace Harassment** 
   1. Workplace Harassment is any improper, unwanted and unwelcome conduct that might reasonably be expected or be perceived to cause offense, violate the dignity of a person, or cause personal humiliation to another or to create an intimidating, hostile, degrading or offensive work environment.
   2. Workplace Harassment includes — but is not limited to — words, gestures or actions that tend to annoy, alarm, abuse, demean, intimidate, belittle or cause personal embarrassment to another. Workplace Harassment can be based on any grounds, such as race, religion, color, creed, age, disability, ethnic origin, physical attributes, sexual orientation, or gender identity.
   3. Workplace Harassment can:
4. Include comments (verbal, written), gestures, or physical actions;
5. Consist either of a single (one-off) incident, or of a repeated, continuous pattern of behavior;
6. Demean, belittle or cause personal humiliation or embarrassment;
7. Be directed at a particular person or a number of people;
8. Be engaged in by any colleague (including subordinates or superiors);
9. Take place at work, in the course of official travel and mission, during social functions related to the job, or in other settings in which it may have a direct impact on the workplace; and
10. Be linked to bias when a group of people is singled out for negative attention.
    1. Behaviors that might constitute Workplace Harassment include, but are not limited to:
11. An improper use of a position of influence, power or authority by an individual against a colleague or group of colleagues. This behavior is particularly serious when an individual misuses his/her influence, power or authority to negatively affect the career or employment conditions of a colleague;
12. Aggressive forms of speech (whether public or private);
13. Insults related to a person's personal or professional competence;
14. Threatening or insulting comments, whether oral or written, including those made through all types of electronic media;
15. Deliberate desecration of religious and/or national symbols;
16. Racial epithets, slurs, and malicious, negative stereotyping expressed in connection with an individual or a group directly or indirectly (*e.g.*, circulated via e-mail, written on walls); and
17. Malicious and false complaints of misconduct against one or more colleagues.
    1. Conduct that would not, in itself, be considered Workplace Harassment includes among others:
18. A Manager’s or Supervisor’s words or actions taken or used without Malice for the primary purpose of evaluating a person’s performance of official duties;
19. The application of disciplinary measures for misconduct, including unsatisfactory performance;
20. The decision not to renew a contract together with delivery of the corresponding notice;
21. The termination of a Staff Member’s employment or a Non-staff Personnel’s contract together with delivery of the corresponding notice, for any of the reasons stated in the Staff Rules and/or contract; and
22. Preferences based on national origin to the extent necessary to obtain geographic distribution as required under Article 120 of the OAS Charter.
    1. Managers and Supervisors have a responsibility to give frank and constructive feedback, and to take appropriate corrective action. They may make decisions that could have a negative impact on a person (e.g., with respect to his/her performance, evaluation or promotion, contract renewal or related to work assignments, appointments), but which do not, in and of themselves, constitute Workplace Harassment.
    2. Staff Members and Non-staff Personnel must have reasonable grounds before making a complaint of Workplace Harassment. Not all situations which appear to meet the definition may ultimately be found to amount to Workplace Harassment. There is a wide range of ambiguous behavior that might offend some people, but not others. The key is whether or not the action was reasonably unwelcome, particularly where in light of whether the recipient asked the alleged offender to stop the relevant conduct in situations where this was possible.
    3. Sometimes people who make remarks or gestures are not aware of their effect on others. They may think that they are being flattering, and may not realize that they are hurting the person in some way. Situations can be perceived as Workplace Harassment because of differences in:
23. Power. Often people with power or authority are not aware of the effect their behavior has on others, because they are used to saying things and not being challenged. They may not know that Staff Members or Non-staff Personnel are often afraid to speak up.
24. Culture. A flattering comment in one culture may be very inappropriate or offensive in another culture. For example, in some cultures it is inappropriate for a man to take gender-based notice of a woman in any way in a professional context.
25. Gender. Men and women may define Workplace Harassment differently. Studies have shown that men tend to see only overt behaviors—crude jokes, outright propositions, etc.—as Workplace Harassment, while women tend to include more subtle behaviors within their concept of Workplace Harassment.
    1. Ideally, the person who feels offended will approach directly the person whose behavior was seen as offensive, either in person or in writing. In such cases, the most expedient course of action for the other person would be to express regret for the impact that the behavior had or to apologize, especially if the concern could be seen as reasonable, and ensure that his/her future behavior is appropriate.
26. **Sexual Harassment**
    1. Sexual Harassment is a specific form of Workplace Harassment that deserves particular attention due to its serious effects on individuals and the Organization.
    2. Sexual Harassment is any unwelcome sexual advance, request for sexual favor or other verbal, non-verbal, or physical conduct of a sexual nature which interferes with work, alters or is made a condition of employment, or creates an intimidating, hostile, degrading or offensive work environment. Unwelcome sexual behavior may be obvious, or it may be subtle. While typically involving a pattern of behavior, it can take the form of a single incident.
    3. Sexual Harassment at work is defined as any unwanted conduct of a sexual nature in the workplace or in connection with work, which, in the reasonable perception of the person concerned, is: (a) used as a basis for a decision which affects that person’s employment or professional situation, or (b) creates an intimidating, hostile or humiliating work environment for that person.
    4. Sexual Harassment may occur between persons of the opposite sexes or of the same sex. Sexual Harassment may occur between a superior and a subordinate or between co-workers. An example of *quid pro quo* Sexual Harassment would be a Supervisor either offering improved terms and conditions of employment to the victim in exchange for sexual favors, or threatening to take negative action in regard to the victim’s employment situation if the request for sexual favors is refused. Verbal or non-verbal conduct that creates a sexually offensive working environment may also constitute Sexual Harassment. An example of *hostile environment* harassment would be found where one or more co-workers subject a victim to comments of a sexual nature that are sufficiently offensive and pervasive as to have a negative impact upon the victim or his/her working environment.
    5. Sexual Harassment includes, but is not limited to:
27. Unsolicited requests for sexual favors;
28. Requests for sexual favors linked to career prospects;
29. Sexually suggestive conduct;
30. Inappropriate or offensive remarks of a sexual nature;
31. The repetition of sexually suggestive comments or innuendo;
32. The exhibition of materials of a sexually-oriented nature (*e.g.*, displaying pornographic web sites or screen savers);
33. The use of crude or obscene language or gestures, or the telling of disrespectful, offensive and/or obscene jokes;
34. Repeated and/or exaggerated compliments about a colleague's personal appearance or physical features;
35. Invitations to social activities if they persist after the recipient has made clear that they are not welcome; and
36. Deliberate and unsolicited physical contact or unwelcome close physical proximity.
37. **Preventive Measures**
38. Prevention of Workplace Harassment is an essential component of the measures to be undertaken by the GS/OAS. It is important for all Staff Members and Non-staff Personnel to understand what constitutes Workplace Harassment. They also should be aware that all forms of Workplace Harassment are subject to administrative and disciplinary action, including, in some instances, summary dismissal and termination of employment or contract.
39. In the discharge of the duty of GS/OAS to take all appropriate measures towards ensuring a harmonious work environment and to protect its Staff Members and Non-staff Personnel from any form of Workplace Harassment, the following preventive measures shall be adopted:
40. The GS/OAS shall inform all Staff Members and Non-staff Personnel (without exception) of its Policy and rules concerning Workplace Harassment.
41. The GS/OAS shall conduct regular and mandatory awareness-raising activities for all Staff Members and Non-staff Personnel in order to raise awareness of the Organization’s zero tolerance of Workplace Harassment; to provide guidance on the relevant Policy and processes; and to foster the creation of an open and harmonious working environment, free from intimidation, hostility, offense and any form of Discrimination and/or Retaliation. These activities are recognized as the most efficient and effective means of communicating information concerning Workplace Harassment. The successful completion of these programs shall be reflected in the Staff Member performance evaluation.
42. The GS/OAS will ensure that appropriate training programs will be offered, including targeted training for Managers and Supervisors, completion of which will be a requirement for advancement to successive levels of responsibility. Specific training will be provided to officials involved in Workplace Harassment claims processes. These programs will provide tools to identify, understand, and deal constructively with Workplace Harassment issues.
43. All Staff Members and Non-staff Personnel with a contract of more than six months shall be required to complete a mandatory program on prevention of Workplace Harassment. For purposes of determining the contract term under this provision, the term of prior contracts issued to the same Staff Members and Non-staff Personnel within a twelve-month period shall be added to the contract under consideration.
44. The Department of Human Resources (DHR) must provide a copy of this Policy to every Staff Member and Non-staff Personnel.
45. Staff Members and Non-staff Personnel should also be made aware that they are protected from Retaliation for reporting Workplace Harassment and for cooperating with investigations and Workplace Harassment claim processes.
46. Managers and Supervisors shall endeavor to create an atmosphere in which Staff Members and Non-staff Personnel feel free to express concerns about inappropriate behaviors and to use, without fear of reprisal, existing institutional channels for conflict resolution.
47. Managers and Supervisors must take reasonable action to prevent Workplace Harassment and Retaliation for bringing concerns forward.
48. **Proactive Measures**

As with all types of Workplace Harassment, the effect of inappropriate behavior on others, and not the intention of the offender, is critical. If an action is reasonably perceived as offensive or intimidating by another, whether intended or not, it should be stopped.

* 1. **Role and responsibilities of the GS/OAS under this Policy:**

1. The GS/OAS shall actively communicate GS/OAS Policy on Workplace Harassment to all Staff Members and Non-staff Personnel;
2. The GS/OAS is responsible to implement the present Policy; and
3. The GS/OAS commits to addressing Workplace Harassment if it receives an allegation of Workplace Harassment, or has reason to believe Workplace Harassment is occurring. In these cases the GS/OAS shall act consistently and take the appropriate administrative action that may be required to ensure that the matter is promptly addressed and investigated.
   1. **Role and responsibilities of Staff Members and Non-Staff Personnel under this Policy:**
4. Any Staff Member or Non-staff Personnel who believes that he/she has been the target of Workplace Harassment is encouraged to inform the offending person through verbal expressions or in writing that such conduct is unwelcome and offensive, and that it must stop. If the aggrieved individual does not wish to communicate directly with the alleged offender, or if such communication has been ineffective, he/she has multiple avenues for reporting allegations of Workplace Harassment and/or pursuing resolution;
5. Staff Members and Non-staff Personnel are encouraged to report the unwelcome conduct as soon as possible;
6. Staff Members and Non-staff Personnel are responsible for familiarizing themselves with this Policy and with the various options and internal channels available for addressing such conduct. Staff Members and Non-staff Personnel are also reminded of the protections against Retaliation for reporting Workplace Harassment and for cooperating with duly authorized investigations;
7. Staff Members and Non-staff Personnel must be respectful of their colleagues and maintain the highest standards of conduct and confidentiality;
8. Staff Members and Non-staff Personnel must maintain a harmonious working environment for other colleagues by behaving in a manner that is free of intimidation, hostility, offence, and any form of Workplace Harassment; and
9. Staff Members and Non-staff Personnel must refrain from all forms of Retaliation.

Failure of Staff Members and Non-staff Personnel to promote and maintain a respectful work environment or to assist in enforcing established standards of conduct may result in appropriate administrative or disciplinary action.

* 1. **Specific role and responsibilities of Managers and Supervisors under this Policy:**

1. Managers and Supervisors must act as role models by upholding the highest standards of conduct in order to achieve a Workplace Harassment-free environment. Managers and Supervisors have a particular responsibility to set positive examples. In their daily actions and communications with Staff Members and Non-staff Personnel they must make clear that Workplace Harassment will not be tolerated;
2. Managers and Supervisors are responsible to facilitate, inspire and help to create a harmonious working environment free of intimidation, hostility, offense and any form of Workplace Harassment;
3. Managers and Supervisors must avoid excusing or minimizing inappropriate behavior;
4. Managers and Supervisors shall make themselves available to provide guidance on prevention and dealing with Workplace Harassment;
5. Managers and Supervisors must ensure that incidents of Workplace Harassment are promptly and adequately addressed. In such cases, Managers and Supervisors must demonstrate fairness and impartiality and avoid intimidation or favoritism. They must also take measures consistent with the present Policy should they witness any acts of Workplace Harassment. Failure to do so may result in appropriate administrative or disciplinary action; and
6. Managers and Supervisors shall take all necessary measures to prevent and address Retaliation.
7. **Confidentiality**

10.1 The GS/OAS will seek to protect to the maximum extent possible the privacy, dignity and self-respect of the parties involved in an institutional process concerning of Workplace Harassment. It will take all necessary action to maintain confidentiality during the process of investigation, including by protecting the identities of the aggrieved individual and alleged offender.

10.2 Except to the extent required in the context of the relevant process, Staff Members and Non staff-Personnel shall not disclose any information learned during the course of a Workplace Harassment claim process. Managers and Supervisors are expected to play a special role by upholding the highest standards of conduct, confidentiality and discretion, without prejudice to their duty to report and/or properly address any known act of Workplace Harassment.

10.3 Circumstances may arise in which it might not be reasonable to preserve confidentiality. In particular, if an alleged incident or course of conduct becomes the subject of a formal complaint, the GS/OAS shall be obligated to inform the alleged offender of the allegations against him/her. All relevant parties must have full access to all relevant documents related to the complaint. Also an exception to maintaining any such confidentiality would be a reasonable concern by the third party from which assistance has been requested about possible violence or other imminent danger of harm to the aggrieved individual, as per Section XI of this Policy.

10.4 Any Staff Member or Non-staff Personnel who is aware of a Workplace Harassment complaint, or is involved in its resolution, must (i) take immediate appropriate steps to address the situation, respecting the sensitivity and confidentiality that must be accorded to the matter; and (ii) refrain from discussing the complaint with anyone who does not have a need to know.

10.5 Appropriate administrative or disciplinary action will result from any breach of confidentiality.

1. **Preliminary Measures**

11.1 The Office of the Ombudsperson is a good place to start when an aggrieved individual is not sure where to go for help with a concern. This informal process shall be independent, confidential, and impartial, as detailed in Section XII of this Policy.

11.2 Prior to commencement of any process, aggrieved individuals may elect to resort to any of the following preliminary measures to address incidents of Workplace Harassment:

1. Confronting the alleged offender and asking him/her to cease the offensive behavior;
2. Reporting the grievance to a supervisor, including the first or second level supervisor;
3. Reporting the grievance to an DHR officer; and/or
4. Reporting the grievance to any member of the Staff Association Committee.

11.3 Aggrieved individuals are encouraged to notify the offender of their complaint or grievance and ask him/her to stop as, in some instances, the alleged offender may not be aware that his/her behavior is offensive. However, a disparity in power or status, or other considerations, may make direct confrontation difficult, and aggrieved individuals are not required to confront the alleged offender. The third party from whom assistance has been requested (the individuals listed in b), c) and d) of Section 11.2 above) may, with the written consent of the aggrieved individual, meet informally with the alleged offender to apprise him/her of the situation and discuss the manner in which it might be resolved to the satisfaction of all concerned.

11.4 These preliminary measures and the informal process of Section XII of this Policy are intended to provide means for solving problems before parties become adversarial, through avenues which enable an aggrieved individual experiencing Workplace Harassment incident(s) to communicate with the person who is offending him/her in an open, honest and non-threatening manner. It is hoped that through discussion or mediation, parties will understand each other’s point of view, and problematic behavior will cease.

11.5 These preliminary measures and the informal process of Section XII of this Policy are separate from the formal process described in Section XIII below. In the event that the aggrieved individual does not provide written consent, as discussed above, for the third party to meet informally with the alleged offender, the third party shall note this fact and advise the aggrieved individual to consider proceeding with the formal process.

11.6 In the event that DHR receives a complaint from the aggrieved individual, DHR shall inform him/her of this Policy. DHR shall be empowered *ex officio* to request the Office of the Inspector General (OIG) to initiate an investigation of a claim of serious or recurrent Workplace Harassment, even without the consent of the aggrieved individual. A report from a third party will incur no obligation on the part of the aggrieved individual to proceed with either an informal or formal process. Also, if after careful consideration of the case, DHR determines that the case is outside the scope of this Policy but warrants action of the GS/OAS, DHR shall act in accordance with its functions and responsibilities.

1. **The Informal Process**
   1. **Action:**

An aggrieved individual may present a complaint through the informal process. Starting a complaint through the informal process does not preclude any aggrieved individual from later making use of the formal process.

* 1. **Competent authority:**

The informal process allows the aggrieved individual to request assistance from the Office of the Ombudsperson.

The Office of the Ombudsperson will proceed in accordance with its standards of practice.

* 1. **Main Goal:**

The purpose of the informal process is to reach a mutually acceptable resolution for Workplace Harassment-related issues, complaints, and grievances.

An informal approach offers the opportunity to resolve a complaint in an expedited and non-contentious manner. All parties involved in the informal resolution process must recognize the need to treat the situation with sensitivity and confidentiality.

This Office will start by listening to concerns and help address work-related issues. This informal process shall be independent, confidential, and impartial.

* 1. **Communications:**

Communications between the Ombudsperson and others (made while the Ombudsperson is serving in that capacity) are considered privileged. The privilege belongs to the Ombudsperson and the Ombudsperson Office, rather than to any party to an issue. Others cannot waive this privilege.

* 1. **Records:**

The Office of the Ombudsperson is obligated to keep its records strictly confidential.

The Ombudsperson shall prepare periodic data and/or reports that identify trends and systemic problems on Workplace Harassment, and such reports shall be prepared in a manner that protects confidentiality.

1. **The Formal Process** 
   1. **Action:**

There is no requirement to first proceed with the informal process before making use of the formal process.

Nevertheless, the formal process is recommended in any of the following circumstances:

1. When the informal process is not desired by the aggrieved individual;
2. When use of the informal process would not be appropriate by any of the parties involved; or
3. When the informal process has been used but has failed to resolve the conflict to the satisfaction of the parties.

The aggrieved individual may elect within one year of the alleged Workplace Harassment incident(s) to initiate the formal process.

* 1. **Competent authority:**

The aggrieved individual may submit a written complaint to the OIG. Where the alleged offender is the Inspector General or anyone working at the OIG, the complaint shall be submitted to the DHR, which shall hire an external investigator. The external investigator will follow the same procedures discussed in this Section.

Third parties, i.e. an individual other than the aggrieved individual, may submit a report of Workplace Harassment -as encouraged in Section 9.2 b) of this Policy- to the OIG when that third party has direct knowledge of the situation in which the aggrieved individual has stated that a particular behavior is unwelcomed.

In all instances, third parties who have direct knowledge of the situation may report cases of Workplace Harassment directly to the OIG without the need to obtain authorization or clearance from any official. A report from a third party will incur no obligation on the part of the aggrieved individual to proceed with either an informal or formal process.

* 1. **Complaint:**

The complaint or report should include:

* 1. The name of the alleged offender;
  2. Date(s) and location(s) of the relevant incident(s);
  3. A detailed description of the relevant incident(s);
  4. The names of witnesses, if any;
  5. The names of persons who are aware of incident(s), if any;
  6. Any other relevant information, including documentary evidence if available; and
  7. The signature of the aggrieved individual or third party making the report, and date of signature, attesting that the information provided is truthful and accurate to the best of the knowledge of the person signing the complaint.

Upon receipt of a formal complaint or report, the OIG will follow its standard investigative procedures to the extent applicable, as set forth in Annex I of this Policy.

The OIG will review the complaint or report within ten working days of its receipt to assess whether it appears to have been made in good faith and whether there are sufficient grounds to warrant a formal fact-finding investigation. If the OIG determines that a formal fact-finding investigation is warranted, the Inspector General shall promptly appoint a competent official to perform the investigation.

Where the OIG determines that no fact-finding investigation is warranted, the OIG shall so inform the aggrieved individual in writing. In such situations, and where appropriate, the OIG may refer the aggrieved individual to the Office of the Ombudsperson for further follow-up. Where the aggrieved individual disagrees with the determination of the OIG that no investigation is warranted, the aggrieved party may consider this a final determination of the GS/OAS with regard to his/her rights, and may then proceed to the Hearing and Reconsideration process of Chapter XII of the Staff Rules.

* 1. **Interim measures:**

At any stage of the formal process the OIG may suggest that interim measures be taken to physically or hierarchically separate the alleged offender and the complainant on a temporary basis. Taking into account the contractual status of the parties, this may include, but is not limited to, the assignment of alternative duties or the consideration of statutory leave for either the alleged offender or the complainant.

* 1. **Investigation process:**
     1. Appointment and role of an Investigating Official

Where the OIG determines that a formal fact-finding investigation is warranted, the complaint shall be promptly investigated by an internal investigating official appointed by the Inspector General.

The main task of the investigating official is to collect evidence, establish the facts, and compile a report with appropriate findings and recommendations. The investigating official must remain neutral throughout the investigation and due process is essential to the integrity of the process. The investigating official shall not presume the guilt of any party.

The investigation official must have knowledge training and experience in Workplace Harassment.

* + 1. Timeframe for starting the investigation

The investigation shall begin within twenty days of the OIG’s determination that an investigation is warranted.

* + 1. Fact-finding phase

No investigative findings should be reported in an investigation report before the subject of an investigation has been afforded the opportunity to respond to the allegation made against him/her. The subject of the investigation will be afforded such opportunity as soon as possible with due regard to the interests of all parties concerned and the integrity of the investigation process.

The investigating official shall inform the alleged offender within five days of the nature of the allegation(s) against him/her.

The investigating official shall apply professional criteria as a trained Workplace Harassment investigator to determine whether and when certain information such as the names of witnesses or particular details of incidents shall be revealed to the alleged offender during the fact-finding phase of the investigation. Even so, the investigating official shall afford the alleged offender an opportunity to respond to all of the factual allegations prior to issuing his/her report. Thus, prior to issuance of the report, all relevant factual matters shall be discussed with the alleged offender. The alleged offender shall be given a reasonable amount of time to respond to all the factual matters, but this reasonable amount of time for response shall not be utilized to delay the investigation process, and shall not exceed thirty working days.

Both parties may suggest a list of persons to be interviewed by the investigating official. The investigating official will interview such persons at his/her discretion. All persons interviewed in the course of the investigation shall be reminded of the duty of discretion and confidentiality set forth in Section X of this Policy.

The fact that a Staff Member or a Non-staff Personnel is under investigation should not be used against someone when considering e.g. the renewal of a contract.

The Advisory Committee on Selection and Promotion (ACSP), the Staff Incentive Awards Committee (SIAC), the Leo S. Rowe Memorial Award Committee, the Performance Evaluation Review Committee (PERC) or any other committee shall be instructed to wait for the conclusion of an investigation before making any decisions involving an alleged offender under investigation.

If at any stage of the investigation process, the alleged offender is no longer employed or contracted by the GS/OAS, the investigation shall be carried through to a conclusion to the extent possible and without violation of the due process and duty of confidentiality. In these cases, the non-participation of any of the parties involved may limit the ability of the OIG to reach a definite conclusion.

* + 1. Conclusion of the investigation

The investigating official shall submit his/her findings and recommendations in a confidential report to the OIG within seventy-five days of the date that the OIG determined an investigation was warranted. This report should be based on written and oral statements, physical or any other evidence such as emails, photographs, etc.

Once the Inspector General receives the report from the investigating official, the Inspector General shall review the draft report and issue a final report to the Secretary General within thirty days.

If the Inspector General, upon reviewing the investigative findings, determines that the allegations of Workplace Harassment are founded, relevant information will be recorded and retained by GS/OAS and the report prepared by the investigating official will be placed in the offender’s personal file.

Furthermore, the OIG may recommend that any Certification of Service made pursuant to Staff Rule 110.11 include specific reference to the OIG finding of harassment on the part of the offender.

If the Inspector General determines that the allegations of Workplace Harassment are a) unfounded, b) have not been sufficiently established, or c) that the facts alleged do not amount to Workplace Harassment, the case may be closed by the OIG. In these cases, a clearance letter will be sent to the Staff Member and/or to Non-staff Personnel who was the subject of the investigation and he or she has the right to have this letter placed in his/her individual file upon request. The complainant shall also be informed by the OIG in writing. This clearance letter and the notification to the complainant shall be made concurrently with the issuance of the OIG report.

* 1. **Recommending disciplinary measures:**
     1. Staff Members

1. Based on the response of the Staff Member to the OIG final report, or the absence of any such response, at or before the end of the prescribed time limit to issue its final report, the OIG may:
2. Close the case, and inform the Staff Member thereof in writing; or
3. Recommend that the Secretary General impose a specific disciplinary measure on the offending Staff Member in accordance with Article 55 of the General Standards and Chapter XI of the Staff Rules; or
4. Recommend that the Secretary General immediately initiate Summary Dismissal proceedings pursuant to Staff Rule 110.5.
5. In all cases where Workplace Harassment is found on the part of the alleged offender, the OIG shall provide the Secretary General with a very specific recommendation for discipline, and this recommendation shall be accompanied by a statement as to why such specific discipline is warranted, and the aggravating or mitigating facts specific to the case. The Inspector General shall make himself/herself available to explain and discuss the disciplinary recommendation in any internal appeal of the discipline imposed, including testimony before the OAS Administrative Tribunal.
   * 1. Non-staff Personnel

In situations where Workplace Harassment is found on the part of individuals not subject to the Staff Rules and the Hearing and Reconsideration process, the OIG shall nevertheless make specific recommendations:

* + 1. Where the alleged offender is an independent contractor, volunteer, intern or fellow, the OIG may recommend immediate termination of their contract for cause, and recommend permanent debarment from any future contract. In addition OIG may recommend that all payments be withheld if not yet paid.
    2. In addition to the foregoing, where conduct or behavior is determined by the OIG to be a crime in the relevant jurisdiction where the events took place, the OIG shall recommend that the GS/OAS refer the matter to local law enforcement.

1. **Wrongful Accusations**

When the facts appear to substantiate the conclusion that the aggrieved individual has intentionally made false statements in connection with the lodging of a complaint the OIG shall make a very specific recommendation that the Secretary General adopt a specific disciplinary measure. This recommendation shall be accompanied by a statement as to why such specific discipline is warranted, and the aggravating or mitigating facts special to the case. The Inspector General shall make himself/herself available to explain and discuss the specific disciplinary recommendation in any internal appeal of the discipline imposed, including testimony before the OAS Administrative Tribunal.

1. **Advisory Committee on Disciplinary Measures, Hearing and Reconsideration Processes**

15.1 Where the specific recommendation of the OIG regarding discipline involves a type of disciplinary measure that requires review by the ACDM, the GS/OAS shall promptly convene that Committee and transmit the OIG report for consideration.[[2]](#footnote-2) Under Staff Rule 111.1, the disciplinary measures that require consultation through the ACDM are written censure, suspension, and dismissal. When the alleged offender and the Secretary General agree upon the disciplinary measure recommended by the OIG, the ACDM shall not be convened, as contemplated in Staff Rule 111.1.

15.2 When the conduct is so severe that the OIG recommends Summary Dismissal for Serious Misconduct, the ACDM shall not be consulted because the Summary Dismissal shall instead proceed under the Summary Dismissal procedure set forth in Staff Rule 110.5.

15.3 The ACDM shall limit itself solely to the consideration of whether the recommended discipline is warranted and proportional in the given circumstances. Therefore, the ACDM shall limit its consideration to the facts as developed and stated in the OIG report. In other words, the ACDM shall not embark upon a new Workplace Harassment investigation and shall solely consider the appropriate disciplinary measure.

15.4 Once convened, the ACDM shall have thirty days to recommend the approval, rejection, or modification of the specific disciplinary measure that the OIG has recommended. However, if the Secretary General receives no recommendation from the ACDM within thirty days of having convened the Committee, the Secretary General shall have fulfilled his/her requirement to consult with the ACDM and impose the disciplinary measure recommended by the OIG.

15.5 Staff Members may appeal the disciplinary measure imposed by making use of the Hearing and Reconsideration Process outlined in Chapter XII of the Staff Rules. For the purposes of Chapter XII, in cases where the ACDM has been consulted, the petitioner shall bypass the hearing procedure and present a reconsideration request within fifteen days of having been notified of the resulting decision, as contemplated in Staff Rule 112.4.[[3]](#footnote-3) In the same way, a Staff Member who is summarily dismissed may appeal that action by requesting reconsideration as provided under Chapter XII of the Staff Rules.

1. **Referral to Local Authorities**

At any juncture in either the preliminary measures or the informal or formal process, where it becomes apparent that the alleged act of Workplace Harassment constitutes criminal activity in the jurisdiction in which the incident(s) took place, the GS/OAS shall inform local law enforcement and cooperate fully with the administration of justice in that jurisdiction, without prejudice to the privileges and immunities of the Organization. The GS/OAS shall coordinate any and all referrals to local law enforcement through the Department of Legal Services (DLS) and the Office of the Secretary General.

1. **Financial Liability**

17.1 Any offending Staff Member whose actions result in a judgment for monetary damages against the GS/OAS shall be required, by deductions from his/her salary and/or from other benefits due, to make full restitution of those damages to the GS/OAS in accordance with Staff Rule 101.3.

17.2 Any offending Non-staff Personnel whose actions result in a judgment for monetary damages against the GS/OAS may be required, by deductions from any monies then due to him/her, to make restitution of those damages to the GS/OAS.

1. **Delegates and Other Persons over whom the GS/OAS has No Control and Authority to Take Disciplinary Action**
2. **Informal process:**

If a complainant believes that he/she has been a victim, in the course of performing his/her official duties, of Workplace Harassment on the part of a representative, employee, or agent of a Member State, of a Permanent Observer, or of a Civil Society organization, or by any other person who is neither a Staff Member, nor a Non-staff Personnel working with the GS/OAS under a contract or any other agreement, the complainant may initiate the informal process set out in Section XII of this Policy.

1. **Formal process:**

If the informal process set forth in Section XII of this Policy is not desired or is inappropriate or otherwise ineffective, the complainant or his/her supervisor may report the matter to the Director of the DHR. The Director of DHR shall inform the Secretary General and shall forward the complaint to the OIG and the formal process (as set in Section XIII of this Policy) shall be initiated. If the OIG concludes that there is substantial reason to believe that Workplace Harassment occurred, the OIG shall send a report to the Secretary General. Upon receipt of the report, the Secretary General will study the matter, and if appropriate, he/she may inform the pertinent authority orally or in writing regarding the incident and the need for corrective action.

1. **Conclusions of the investigation:**

Where the alleged offender is an employee of a Member State Government, or of the Government of a Permanent Observer, or receives remuneration as contractor of either of the above, the OIG shall make a specific recommendation and formally forward this recommendation to the Member State Government or Permanent Observer. Where the alleged offender is also an Associate Staff Member, the OIG may recommend that such Associate Staff Member agreement and/or contract be terminated.

If the OIG finds that there is substantial reason to believe that Workplace Harassment did not occur, the OIG shall then notify the complainant, the alleged offender who was incorrectly accused of Workplace Harassment and all individuals interviewed by them.

If the OIG finds that there was no Workplace Harassment and that it is a wrongful accusation per Section XIV of this Policy, the OIG may recommend to the Director of DHR that disciplinary action under the Staff Rules be taken against the complainant. Upon receipt of such a recommendation, the Director of DHR shall take appropriate action.

1. **Annual Information Circular**

The Secretary General shall publish an annual circular informing about the number of Workplace Harassment cases and its outcome, with due regard to the privacy of the parties involved.

**ANNEX I**

**STANDARD investigative procedures OF THE Office of the Inspector General**

1. **Preliminary Review Phase**

|  |  |
| --- | --- |
| **PHASE** | **PROCEDURES** |
| Preliminary Review | 1. Acknowledge receipt of allegation |
| 1. Interview complainant |
| 1. Review documentation received |
| 1. Request additional documentation (if applicable) |
| 1. Conduct due diligence research |
| 1. Request and review personnel documentation |
| 1. Analyze applicable rules and regulations |
| 1. Conduct preliminary interviews |
| 1. Other |
| 1. Prepare Preliminary Review sheet to open investigation or close the matter without opening an investigation. |

Information presented in this preliminary review sheet typically includes:

* A case number (matter #).
* A description of the allegation.
* A preliminary review assessment.
* Reason for the assessment.
* An Investigation plan, if applicable.
* Date of the preliminary review closing.

1. **Investigation Phase**

|  |  |
| --- | --- |
| **PHASE** | **PROCEDURES** |
| Investigation | 1. Prepare Notification of Investigation memo |
| 1. Notify subject of investigation |
| 1. Conduct interview with subject |
| 1. Conduct interview with possible witness (es) |
| 1. Conduct due diligence research |
| 1. Computer seizure (if applicable, in coordination with DOITS) |
| 1. Submit request to DOITS to perform forensic data analysis (if applicable) |
| 1. Submit request to DHR to temporarily suspend the subject pending result of final report |
| 1. Conduct final interview with subject |
| 1. Other |

The OIG may request DLS’ assistance during the interview process with the subject and the witness(es).

1. **Reporting Phase**

|  |  |
| --- | --- |
| **PHASE** | **PROCEDURES** |
| Reporting | 1. Prepare and issue preliminary review sheet to close preliminary review phase |
| 1. Prepare draft investigation report (if applicable) |
| 1. Finalize and issue investigation report to the Secretary General with copy to the Chief of Staff |
| 1. Prepare hard copy of investigation folder |

The investigation report typically includes the following information:

* An introduction.
* Description of the allegation(s).
* Description of relevant rules.
* Investigation methodology.
* Description of the finding(s).
* OIG conclusion (s) and recommendation(s).

1. Although the GS/OAS is not a signatory to this Convention, and the following referenced Conventions, OAS Member States have set forth these concepts and the GS/OAS is guided by their stated principles. The GS/OAS is not a signatory because these are multilateral conventions intended for signature and ratification by OAS Member States governments. [↑](#footnote-ref-1)
2. With regard to discipline, the pertinent provisions of the General Standards are as follows:

   Article 54. Adoption of Disciplinary Measures: The Secretary General may adopt, in accordance with the pertinent regulatory provisions, disciplinary measures for unsatisfactory performance of work or for conduct not in conformity with these Standards.

   Article 55. Types of Disciplinary Measures: Disciplinary measures shall consist of oral or written admonition, written censure, suspension, and dismissal.

   Article 56. Advisory Committee on Disciplinary Measures: The Secretary General shall establish a committee to advise him/her on the subject and application of disciplinary measures. The Staff Association shall be represented on that committee.

   Article 59. Summary Dismissal: The Secretary General may summarily dismiss any staff member for serious misconduct.

   Also see Staff Rules Chapter XI Discipline: [↑](#footnote-ref-2)
3. Staff Rule 112.4. Bypassing the Hearing Procedure where a case has Already been Heard by the Joint Disciplinary Committee or by a Hearing Officer in a Summary Dismissal Hearing: In those situations in which a case has been already heard by the Joint Disciplinary Committee under Chapter XI of these Rules or by a Hearing Officer in a Summary Dismissal Hearing under Rule 110.5, a dissatisfied Staff Member seeking to pursue his/her grievance shall bypass the Hearing and present a Reconsideration Request within 15 days of having been notified of the resulting decision to dismiss him/her or to apply another disciplinary measure, as the case may be. [↑](#footnote-ref-3)