

# Annex A

## Statutes of the Appeals Board

### **Purpose of the Appeals Board**

1. The Appeals Board (hereinafter referred to as “the Board”) shall advise the Director-General, with whom the final decision shall rest, on appeals made by members of the staff.

### **Composition of the Board**

2. The Board shall be composed of five members, all having equal votes, as follows:

(a) A Chairperson appointed by the Executive Board. An alternate Chairperson may be appointed in the same manner.

(b) Two members, appointed by the Director-General or by his/her designated representative, subject to subparagraph (d) and paragraph 3 below, for each appeal.

(c) Two members, appointed in rotation, subject to subparagraph (d) and paragraph 3 below, for each appeal, by the Chairperson of the Board from a Staff Panel divided into two groups elected every two years by a ballot of staff members as follows:

Group I: twenty members from the Professional category and above; Group II: twenty members from the General Service category. Not more than three of the twenty members in Group I, and not more than five in Group II should, to the extent possible, be of the same nationality.

(d) In appointing members for each appeal the Director-General, or his/her designated representative and the Chairperson of the Board shall not appoint any member from the Appellant’s Division, Bureau or Office and shall observe the principle of equitable geographical distribution.

3. The Appellant may object to up to two members of the Board, with the exception of the Chairperson or the alternate Chairperson. The Administration may object to up to two members of the Staff Panel. In such cases, new members shall be appointed in accordance with subparagraphs 2 (b), (c) and (d) above.

4. The Director-General shall appoint a Secretary to the Board.
5. Associations representative of staff under Staff Regulation 8.1 may each be represented by an observer at all hearings of the Board, unless the Appellant objects.

### **Jurisdiction of the Board**

6. The Board shall consider appeals against an administrative decision or against a disciplinary measure where a staff member alleges that it conflicts either in substance or in form with the terms of his or her contract, or with any Staff Regulation or Staff Rule relevant to his or her case.

7. In cases in which the decision appealed against is based on grounds of performance, the Board shall not have jurisdiction to determine the substantive question of performance, but only the question as to whether the decision was affected by prejudice or another extraneous factor, or whether there was a procedural flaw.

8. A staff member, in agreement with the Director-General, may waive his or her right of recourse to the Board and appeal directly to the Administrative Tribunal and in such case the decision impugned shall be considered as final and the staff member shall be deemed to have exhausted all other means of contesting it.

### **Preliminary procedure: Administrative review**

9. A staff member who wishes to contest an administrative decision or disciplinary measure shall first address a written request for administrative review to the Director-General. The request for administrative review shall be addressed to the Director-General through the Director of the Bureau of Human Resources Management, within a period of 60 calendar days from the date of receipt of the administrative decision or of the disciplinary measure contested by the staff member. The request for administrative review shall clearly identify the administrative decision or disciplinary measure against which the request for administrative review is directed, including its date of receipt.

10. The ruling of the Director-General on the request for administrative review shall be communicated to the staff member by the Director of the Bureau of Human Resources Management within 60 calendar days of the date of receipt of the request.

11. If the staff member wishes to pursue his or her recourse, he or she shall address a Notice of Appeal in writing to the Secretary of the Appeals Board. The time limit for the submission of a Notice of Appeal, to be counted from the date of receipt of the Director-General's ruling (or, if no ruling was communicated to the staff member within the time limit under paragraph 10 above, from the expiry of that time limit), is 30 calendar days.

12. The Notice of Appeal shall clearly identify the administrative decision or disciplinary measure against which the Appeal is directed, including its date of receipt by the Appellant, the date of the request for administrative review and the date of the Director-General's ruling or the fact that no ruling was communicated to the Appellant within the applicable time limit.

### **Procedure before the Appeals Board**

13. Within 90 calendar days of the Notice of Appeal, the Appellant or his or her representative shall file an Appeal using the form set forth in the Appendix to these Statutes. If the Appeal is irregular in any respect, the Secretary of the Board shall return it for rectification, and may grant up to 30 calendar days for resubmission. The Appellant shall specify in his or her Appeal whether he or she requests a hearing.

14. Upon receipt of the Appeal, the Secretary of the Board shall immediately forward copies to the Chairperson of the Board and to the Administration.

15. Within 90 calendar days of the receipt of the Appeal, the Administration shall submit its Reply to the Secretary of the Board, with supporting documents. The Secretary of the Board shall immediately forward copies of the Reply to the Chairperson and to the Appellant.

16. Upon receipt of the Administration's Reply (or, failing such a Reply upon expiry of the time limit for its submission), the Chairperson and the Director-General shall appoint members of the Board, in accordance with paragraph 2, to examine the Appeal. The Secretary of the Board shall inform the persons appointed and shall inform the Appellant of their names. Copies of the Appeal and Administration's Reply shall be forwarded to the members of the Board, as soon as they accept their appointment.

17. Members so appointed who are no longer able to serve shall notify the Secretary of the Board immediately. They shall return to the Secretary of the Board any documents relating to the Appeal.

18. If the Appellant has requested a hearing, the Secretary of the Board shall convene the Board to hear the Appeal as soon as possible and not later than six months after receiving the Administration's Reply under paragraph 15 (or, failing such a reply, after the expiry of the time limit for its submission).

19. The Chairperson may dismiss an Appeal if the Appellant is not present or is not represented in accordance with paragraph 28 at the hearing. The Appellant may request one postponement of the hearing for serious cause.

20. Only those persons whose presence is foreseen by these Statutes may attend the hearing. It shall commence with a brief oral statement of the Appeal by the Appellant or his or her representative, followed by an oral reply by the representative of the Director-General. The Parties may give evidence orally and call witnesses. The Parties and the Chairperson may question all those who give evidence. The Chairperson may request the disclosure of evidence from the Parties. Observers may not take the floor during the debate. They may make an oral statement at the end of the hearing.

21. On completion of the hearing, the Board shall deliberate in private.

22. At the end of these deliberations, the Board shall, by a majority vote, adopt a Report summarizing the Board proceedings and advising the Director-General on what action, if any, he or she should take. Dissenting votes, and dissenting opinions (if the dissenting members desire) shall be stated in the Report. The Report of the Board and the Board's recommendations should be based on the relevant Staff Regulations and Staff Rules of UNESCO and any other administrative issuance governing the conditions of service of staff members of the Organization.

23. The Secretary of the Board shall forward the Report to the Director-General and a copy to the Appellant, within 60 calendar days following the end of the session of the Board.

24. The Director-General shall make a decision thereon within a reasonable delay, and no later than 90 calendar days following the receipt of the Report. The Appellant and the Chairperson shall be notified accordingly.

## **General Provisions, Records and Reports**

25. The term “Party” refers to either the Appellant or the Administration, who are together referred to as “the Parties”.

26. The Board shall normally hold two sessions per calendar year.

27. Hearings may be held in person or via remote facilities. The Chairperson and the Board members may attend the hearings of the Board either in person or remotely.

28. Neither Party shall have the right to external legal representation before the Board. The Appellant may designate a staff member to represent him or her in the Board proceedings.

29. All proceedings of the Board shall be confidential. Records of the Board shall be confidential and shall be kept by the Secretary of the Board. The report of the Board shall be confidential unless otherwise decided by the Director-General. An appellant may disclose the report to the Administrative Tribunal. Reports of the Board and decisions of the Director-General thereon shall be communicated for information to the members of the Executive Board in private meetings.

Intending appellants who have requested an administrative review under paragraph 9, members of the Board appointed for any particular case and the President or Presidents of the staff association or associations may examine all previous reports of the Board, and decisions made thereon by the Director-General.

30. The time limits contained in these Statutes shall run from the day following the receipt of the relevant decision or notification. The Chairperson may extend time limits in exceptional circumstances.

31. When the Chairperson considers that an Appeal is manifestly irreceivable or without merit, he or she recommends to the Director-General that the Appeal be dismissed. The Secretary of the Board shall convey the Director-General’s decision on the matter to the Appellant.

32. Failure by the Appellant to observe the time limits set out in these Statutes will render the Appeal irreceivable.

33. In case the Parties agree to engage in informal resolution, the Chairperson may suspend the Board proceedings and the applicable time limits as may be necessary.

34. All decisions, notifications, rulings and reports referred to in these Statutes may be conveyed to the Parties by electronic means of communication.

35. The Director-General may delegate his or her authority under these Statutes.

#### **Appeals by staff members in field duty stations**

36. The Appellant and his or her representative have the right to attend the hearing either remotely or in person provided that they travel at their own expense. Upon request from the Appellant, special leave with pay shall be granted for the purpose of attending the hearing either in person or remotely.

#### **Amendment of the Statutes**

37. Paragraphs 2, 6, 7 and 8 may be amended only by the General Conference. The remainder of the Statutes, and the Appendix, may be amended only by the General Conference or the Executive Board.

## Appendix to the Statutes of the Appeals Board

Form in which appeals by staff members shall be drawn up.

Appeals shall be submitted in one copy in the following form, in one of the working languages of the Secretariat.

### **Form**

- (a) Surname and first name of the Appellant.
- (b) Nationality of the Appellant.
- (c) The Appellant's mailing and e-mail addresses for the purpose of the proceedings.
- (d) Grade of the Appellant, Sector, Service or Bureau to which he or she belongs, his or her duty station and a statement of his or her duties.
- (e) The administrative decision or disciplinary measure against which the Appeal is directed, including its Authority and date.
- (f) Date of the request for administrative review submitted under paragraph 9.
- (g) Date of the Director-General's ruling under paragraph 10 (or date by which such ruling should have been communicated).
- (h) A signed list of documents submitted. These documents must include a copy of the Appellant's request for administrative review, and a copy of the Director-General's ruling on the request for administrative review (or a statement that no ruling was made within the statutory time limit). Additional documents may be included by the Appellant.
- (i) A short statement of facts and arguments advanced.
- (j) A statement indicating whether the Appellant requests a hearing.
- (k) List of witnesses whom the Appellant wishes to hear.
- (l) Conclusions and Relief sought by the Appellant.
- (m) Date and Appellant's signature.