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Policy on Protection against Retaliation for Reporting Misconduct or Cooperating with Duly Authorized Audits and Investigations

1. Statement of the Policy

- 1.1 Policy Summary: It is the policy of IRENA that it is strictly prohibited to retaliate against staff members and non-staff personnel, as defined in section 2, below, who have, in good faith, properly reported allegations of misconduct, or who have cooperated with a duly authorized audit or investigation. Such retaliation violates the fundamental obligation of all staff members and non-staff personnel, as defined in section 2, below, to uphold the highest standards of efficiency, competence and integrity as required under the Statute of IRENA and under the IRENA Staff Regulations and Rules, including the Code of Conduct, and to discharge their functions and regulate their conduct with the interests of IRENA only in view. Retaliation, as defined under this Policy, is itself misconduct and any staff members and non-staff personnel who commit retaliation may be subject to disciplinary or other applicable measures.
- 1.2 Objectives of the Policy: The Agency has promulgated this Policy in order to:
 - 1.2.1 Encourage staff members and non-staff personnel, as defined in section 2, below, to report, in good faith and without fear of retaliation, possible misconduct and/or to fully cooperate with a duly authorized audit or investigation;
 - 1.2.2 Establish the basis by which the Agency can effectively address any instances of retaliation, manage the risk of retaliation, and protect staff members and non-staff personnel reporting unsatisfactory conduct or misconduct in good faith; and,
 - 1.2.3 Foster a working environment that operates with accountability and transparency.
- 1.3 This Policy should be read in connection with other applicable regulations, rules, policies, and procedures, including without limitation:
 - 1.3.1 The IRENA Staff Regulations and Rules;
 - 1.3.2 The IRENA Financial Regulations and Procedures;
 - 1.3.3 The IRENA Code of Conduct annexed to the Staff Rules;
 - 1.3.4 The IRENA Policy on Addressing Prohibited Conduct;
 - 1.3.5 The Policy on Ethics and Conflicts of Interest for IRENA;
 - 1.3.6 The IRENA Audit Charter; and,
 - 1.3.7 The IRENA Directive on the Disciplinary Process.

2. Definitions

- 2.1 For the purposes of the present Policy, the following terms shall have the following meanings:
- 2.1.1 “Complaint” means a request for protection against retaliation made to the Ethics Officer on the “Form for Requesting Protection against Retaliation” either by hand or by email at EthicsOffice@irena.org and within the time prescribed by this Policy;
 - 2.1.2 “Complainant” means any staff member or non-staff personnel who makes a request for protection under this Policy;
 - 2.1.3 “Ethics Officer” means the Secretariat staff member appointed by the Director-General to implement the ethics and conflict policies of IRENA, including as specified in this Policy;¹
 - 2.1.4 “Investigative Entity” means an investigative body within the United Nations system of organizations, such as the United Nations Office of Internal Oversight Services, or within another international organization, or an outside entity qualified to carry out an investigation, such as a qualified law firm or investigative firm or individual investigator, with whom IRENA has established or will establish, from time to time, an agreement to perform the investigative functions set forth in this Policy;
 - 2.1.5 In accordance with Staff Rule 111.1(a), “Misconduct” means a failure by a staff member “to comply with his or her obligations under the Staff Regulations and Rules, including the Code of Conduct, the Financial Regulations and Procedures, and directives issued by the Director-General.” As stated in Staff Rule 102.2(c), a “violation of the provisions of the Code of Conduct shall constitute misconduct under Article 11 of the Staff Regulations and Chapter 11 of the Staff Rules.” Staff Rule 111.1(b) further provides that “once it has been established that misconduct has occurred, disciplinary measures proportionate to the gravity of the misconduct may be imposed.”
 - 2.1.6 “Non-Staff Personnel” means any individual engaged by contract or other agreement between such individual and the Agency to perform or provide services to the Agency and whose relationship with the Agency is not governed by a letter of appointment subject to the Staff Regulations and Rules. Non-staff personnel include, without limitation, consultants, individual contractors, service contract holders, interns, volunteers, persons engaged on a reimbursable or non-reimbursable loan agreement, or IRENA officials other than staff members.
 - 2.1.7 A “*prima facie*” case of retaliation has the meaning set forth in section 9.3, below.
 - 2.1.8 A “protected activity” means an act described in section 4.1, below.

¹ See Policy on Ethics and Conflict of Interest for the International Renewable Energy Agency, section 2.4.

- 2.1.9 “Retaliation” or “retaliatory action” means any direct or indirect detrimental action that adversely affects the employment or working conditions of an individual, where such action has been recommended, threatened or taken for the purpose of punishing, intimidating or injuring an individual because that individual has engaged in a “Protected Activity.” Retaliation is itself an act of misconduct within the meaning of the Staff Regulations and Rules and the Code of Conduct as well as being a violation of this Policy. For purposes of this Policy, the legitimate application of regulations, rules, policies, procedures or administrative issuances, 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.
- 2.1.10 “Unsatisfactory conduct” means any failure by a staff member or non-staff personnel to satisfy the standards of conduct expected of such staff member or such non-staff personnel under the Staff Regulations and Rules, including the Code of Conduct, the Financial Regulations and Financial Procedures, and any applicable policies, procedures and administrative issuances. In cases in which it has *not* been established that the conduct of a staff member or non-staff personnel constitutes misconduct, but it has, nevertheless, been established to constitute unsatisfactory conduct under the foregoing regulations, rules, or policies and procedures, such unsatisfactory conduct may lead to the imposition of administrative measures, managerial action, or other applicable measures (*e.g.*, in the case of non-staff personnel, the measures set forth in the applicable agreement with the Agency).

3. General Principles

- 3.1 The Director-General and those Agency officials having supervisory authority over staff members or non-staff personnel have a duty to address suspected unsatisfactory conduct or misconduct and to prevent or address retaliation for reporting in good faith alleged unsatisfactory conduct or misconduct, or for cooperating in good faith with any duly authorized audits and investigations.
- 3.2 It is the duty of staff members and non-staff personnel to report to officials of the Agency whose responsibility is to take appropriate action upon receipt of such report, any breach of the Agency’s Financial Regulations and Procedures, the Staff Regulations and Rules, including the Code of Conduct, or policies and procedures of IRENA. In addition, any staff member and any non-staff personnel who makes such a report in good faith has the right to be protected against retaliation.
- 3.3 It is also the duty of staff members and non-staff personnel to cooperate with duly authorized audits and investigations. Any staff member and any non-staff personnel who cooperates in good faith with a duly authorized audit or investigation has the right to be protected against retaliation.
- 3.4 Retaliation against individuals who have reported misconduct or who have cooperated with duly authorized audits and investigations violates the fundamental obligation of all staff members and non-staff personnel to uphold the highest standards of efficiency, competence, and integrity and to discharge their functions and regulate their conduct only with the interests of the Agency in view.

- 3.5 Staff Members and non-staff personnel are prohibited from retaliating or threatening to retaliate against any other staff member or non-staff personnel who have engaged in a protected activity.
- 3.6 Retaliation by staff members or non-staff personnel against a third-party engaged in any dealings with IRENA (e.g., institutional contractors, Agency partners, or Agency clients), or any employees, agents or representatives of such third party, because such third-party or such employee, agent or representative thereof, has reported misconduct or has cooperated with a duly authorized audit or investigation is prohibited and may lead to the imposition of disciplinary measures or other appropriate action (e.g., in the case of non-staff personnel, the measures set forth in the applicable agreement with the Agency).
- 3.7 It is the role of the Ethics Officer under this Policy to:
 - 3.7.1 Receive Complaints of retaliation and requests for protection against retaliation from Complainants;
 - 3.7.2 Maintain the confidentiality of Complaints and the records associated with them; and,
 - 3.7.3 Conduct a preliminary assessment of the allegations of retaliation made by Complainants in accordance with this Policy.

4. Protected Activities

- 4.1 Under this Policy, staff members and non-staff personnel are protected for, in good faith:
 - 4.1.1 Reporting the failure of any staff member to comply with his or her obligations under the Statute of IRENA, the Staff Regulations and Staff Rules, including the Code of Conduct, the Financial Regulations and Procedures, and any policies, procedures or administrative issuances of IRENA;
 - 4.1.2 Reporting the failure of any non-staff personnel to comply with his or her obligations regarding conduct as set forth in the applicable agreement with IRENA, including in the Code of Conduct when made part of such agreement;
 - 4.1.3 Reporting any request or instruction from any staff member or non-staff personnel to violate the above-mentioned regulations, rules, policies, procedures, administrative issuances, or terms of agreement;
 - 4.1.4 Reporting any conduct by any person that, if established to have occurred, would be manifestly harmful to the interests, operations, or governance of the Agency; or
 - 4.1.5 Cooperating with any duly authorized audits or investigations.
- 4.2 In order to receive protection against retaliation or threats of retaliation under this Policy, the report should be made as soon as possible, but not later than the time-limit specified in section 7.2, below. The individual seeking protection from retaliation must make the report in good faith and must submit information and/or evidence to support a reasonable belief that the reported unsatisfactory conduct or misconduct has occurred.

- 4.3 While an individual who cooperates in good faith with a duly authorized audit or investigation may seek protection against retaliation or threats of retaliation under this Policy, cooperation with such an audit or investigation will not excuse an individual's own complicity in the underlying matter. That is, notwithstanding his or her cooperation, an individual may face disciplinary or other appropriate measures (e.g., in the case of non-staff personnel, the measures set forth in the applicable agreement with the Agency) for the individual's role in the matter under such audit or investigation. Neither the investigation nor the imposition of any disciplinary or other appropriate measure resulting from an individual's complicity in the underlying matter under investigation constitutes retaliatory action.
- 4.4 This Policy does not prevent the Director-General or Agency managers from applying regulations, rules, policies and procedures or performing performance evaluation and performance management activities. For purposes of this Policy, the legitimate application of regulations, rules, policies 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.
- 4.5 Where, in accordance with this Policy, a *prima facie* case of retaliation as described in section 9.3 below has been found to have occurred, the Director-General must show by *clear and convincing evidence* that the alleged retaliatory action taken against the individual seeking protection would have been taken irrespective of the protected activity referred to in section 4.1 above, *and* that the alleged retaliatory action was not taken for the purpose of punishing, intimidating or injuring the individual who engaged in the protected activity.²
- 4.6 The dissemination of unsubstantiated information or false rumors, or the reporting of intentionally false or misleading allegations of unsatisfactory conduct or misconduct, are not protected activities under this Policy. Such acts may constitute misconduct for which disciplinary or other appropriate measures may be imposed, for staff members in accordance with the Staff Regulations and Staff Rules and applicable policies and procedures of IRENA, or for non-staff personnel as set forth in the applicable agreement regarding the provision of their services to the Agency.

5. Reporting Misconduct through Established Internal Mechanisms

- 5.1 Except as provided in section 6, below, reports of alleged unsatisfactory conduct or misconduct should be made, depending on the allegation, to the following established internal reporting mechanisms:
- 5.1.1 The IRENA Internal Auditor, for information about possible unsatisfactory conduct or misconduct in the nature of financial irregularities, such as fraud, theft, embezzlement, and corruption;

² See section 10.3, below.

- 5.1.2 The Director, Administration and Management Services (“Director, AMS”), or the Chief of Staff, Executive Office of the Director General (“Chief of Staff”), as the case may be, for any other form of possible unsatisfactory conduct or misconduct;³
- 5.1.3 The Investigative Entity conducting ongoing investigations into or relating to the possible unsatisfactory conduct or misconduct that is the subject of the report;
- 5.2 The Director-General and all Agency managers, including the Ethics Officer, will strive to protect the identity of Complainants who, in accordance with this Policy, seek protection against retaliation or threats of retaliation, and to protect the confidentiality of all communications made by any such Complainant. However, in exceptional circumstances, the identity of the Complainant and related information may be disclosed in whole or in part:
 - 5.2.1 To anyone with a legitimate need-to-know in order to resolve the Complaint or assist the Investigative Entity assigned;
 - 5.2.2 In circumstances where, as part of legal proceedings, the Ethics Officer is required to make such disclosure; or,
 - 5.2.3 When, in the opinion of the Ethics Officer following consultation with the Ethics Advisory Board, disclosure of such confidential information is required in order to adequately address or remediate the situation alleged to be retaliatory or to attempt to prevent further misconduct.

In all such instances, the Complainant shall be consulted prior to any disclosure being made.

- 5.3 Notwithstanding the foregoing, the Director-General and other Agency managers, including the Ethics Officer, will not be bound to maintain the confidentiality of the Complainant or the information in the Complaint in situations where the Complainant requesting protection under this Policy does not maintain confidentiality or acts in a manner from which it may be reasonably inferred that the he or she has waived any expectation of confidentiality.

6. Reporting Misconduct through an External Entity

- 6.1 Whenever the criteria set out below are satisfied, protection against retaliation or threats of retaliation will be extended to any individual who reports misconduct to an entity or individual outside of the established internal mechanisms referred to in section 5 above or otherwise established by the Agency:
 - 6.1.1 Such reporting is necessary to avoid:
 - (a) A significant and imminent threat to public health or safety, or
 - (b) Imminent and substantive damage to the Agency’s activities or operations; or
 - (c) Violations of national or international law; and,

³ Possible instances of unsatisfactory conduct or misconduct are to be reported to the Chief of Staff in cases in which the Director, AMS, is the alleged perpetrator of the possible unsatisfactory conduct or misconduct, or may have an apparent conflict of interest in dealing with the alleged perpetrator of the possible unsatisfactory conduct or misconduct.

6.1.2 The use of established internal reporting mechanisms is not possible because:

- (a) At the time the report is made, the individual has reasonable grounds to believe that he or she will be subjected to retaliation by the person(s) he or she should report to pursuant to the applicable established internal mechanism; or
- (b) It is likely that evidence relating to the misconduct will be concealed or destroyed if the individual reports to the person(s) he she should report to pursuant to the established internal mechanisms; or
- (c) The individual has previously reported the same information through the established internal mechanisms, and the Agency has failed to inform the individual in writing of the status of the matter within six (6) months of such a report having first been made; and

6.1.3 The person reporting accepts no consideration or compensation from the individual or external entity to which the report has been made.

6.2 For purposes of Staff Regulation 2.5(f), the provisions of section 6.1, when followed by a staff member in accordance with this Policy, constitute an appropriate communication made in the normal course of such staff member's duties.

7. Requesting Protection Against Retaliation

7.1 A request for protection against retaliation or threats of retaliation shall be made by means of a Complaint submitted to the Ethics Officer on the "Form for Requesting Protection against Retaliation" either by hand or by email at EthicsOffice@irena.org. As soon as possible, but not later than ten (10) working days after submitting such Complaint, the Complainant shall submit to the Ethics Officer all information and documentation available to the Complainant and which supports such Complaint. If such information or documentation is not reasonably available to the Complainant, he or she shall inform the Ethics Officer where such information or documentation may otherwise be found.

7.2 A Complaint requesting protection under this Policy must be submitted to the Ethics Officer within six (6) months after the date when the Complainant knew or, in the opinion of the Ethics Officer, should have known that the alleged retaliatory action was taken. Such time limit may be extended by the Ethics Officer in cases in which, in the sole opinion of the Ethics Officer, it is in the best interests of the Agency to do so or this is otherwise necessary to give effect to the overall intent and purpose of this Policy. In such case, the Ethics Officer shall maintain a written record of the reasons for extending such time limit.

8. Preventive Action

8.1 Agency officials receiving reports of misconduct⁴ shall, with the consent of the individual making such reports, inform the Ethics Officer if a risk of retaliatory action or threat of retaliation exists to the individual who has engaged in a protected activity. In such case, the official of the Agency concerned shall provide to the Ethics Officer all information necessary

⁴ See Directive on the Disciplinary Process, ST/DR/2024/1/21970, paragraph 7, specifying the officials who are to receive reports of possible misconduct.

for the Ethics Officer to take appropriate action, if necessary, to prevent any retaliatory action or threat of retaliation against the individual who has engaged in a protected activity.

- 8.2 As soon as possible after receiving the information described in section 8.1, above, the Ethics Officer shall arrange to consult confidentially with the individual who has engaged in a protected activity on whether and what appropriate prevention action(s) may be warranted under the circumstances. With the consent of the individual who has engaged in a protected activity, prevention action(s) may include engagement by the Ethics Officer with the Director, AMS, or the Chief of Staff,⁵ as the case may be, so that the Director, AMS or the Chief of Staff can arrange for the monitoring of the individual's working conditions by an appropriate Agency official with a view to preventing, for the duration of the investigation and any disciplinary process or other appropriate action resulting from the report of possible misconduct, any retaliatory action or threats of retaliation against such individual as a consequence of the individual's having engaged in a protected activity.

9. Preliminary Review and Assessment of Complaints of Retaliation

- 9.1 Within five (5) working days after receiving a Complaint, the Ethics Officer shall confidentially acknowledge in writing to the Complainant the receipt of the Complaint. Unless the Ethics Officer has already received information and documentation from the Complainant or other sources that is required to support the Complaint or has been informed where such information and documentation may be found, the Ethics Officer shall confidentially consult with the Complainant as promptly as possible to obtain such information and documentation or to locate where such information and documentation can be found.
- 9.2 If the Ethics Officer is of the opinion that there may be a conflict of interest associated with the Ethics Officer's review of the Complaint, or in order to avoid even the appearance of any conflict of interest or undue pressure or influence, the Ethics Officer may refer the Complaint to the Director, AMS, or the Chief of Staff, as the case may be, for advice and guidance regarding the selection of an alternate official of the Agency or an outside person or entity who is qualified to handle such matters, to handle the duties of the Ethics Officer under this Policy. In such cases, the Ethics Officer shall also confidentially inform the Ethics Advisory Board of such conflict of interest or appearance thereof and of any resulting action taken by the Director, AMS, or the Chief of Staff, as the case may be so that the Board is aware of the situation. The Ethics Officer and the Ethics Advisory Board shall be informed of the outcome of the investigations and any further actions undertaken by such Agency official, outside person or entity.
- 9.3 Promptly following receipt of a Complaint and the receipt and gathering of all necessary supporting information and documentation, the Ethics Officer shall conduct a preliminary assessment of the Complaint to determine whether there is a *prima facie* case of retaliation because:
- 9.3.1 The Complainant has engaged in a protected activity;

⁵ If the Director, AMS, is the subject of the report of possible misconduct or is the official who is at risk retaliating against the individual concerned.

- 9.3.2 There are facts or circumstances demonstrating that it is more likely than not (*i.e.*, probable cause to believe) that the alleged retaliatory action is taking, or has taken, place; and,
- 9.3.3 There are facts or circumstances demonstrating that it is more likely than not (*i.e.*, probable cause to believe) that the protected activity in which the Complainant has engaged is a substantial contributing factor in causing the alleged retaliation.
- 9.4 All staff members and non-staff personnel have a duty to cooperate with the Ethics Officer whenever requested to provide information or documentation which, in the opinion of the Ethics Officer, is necessary for the proper conduct of the preliminary review and assessment of the allegations of retaliation set forth in the Complaint. Notwithstanding the foregoing, any confidential medical information relating to the Complainant shall not be provided to the Ethics Officer without the written consent of the Complainant, nor shall any confidential investigation or audit records of the Agency be provided to the Ethics Officer without the written consent of the Director-General or another official duly authorized by the Director-General.
- 9.5 The preliminary review and assessment of the Complaint is intended to enable the Ethics Officer to gather evidence to aid in the Ethics Officer's independent review and evaluation of whether, in accordance with section 9.3, above, there is a *prima facie* case of retaliation.
- 9.6 Both during the preliminary review and assessment of a Complaint to determine whether there is a *prima facie* case of retaliation and pending the completion of any subsequent investigation and disciplinary process or other appropriate action after a *prima facie* case of retaliation has been established,⁶ the Ethics Officer may make recommendations to the Director-General or to other Agency officials, to take interim measures to safeguard the interests of the Complainant. Such interim measures may include, but are not limited to, the temporary suspension of implementation of the allegedly retaliatory action and/or, in consultation with the Complainant, temporary reassignment of the Complainant or placement of the Complainant on special leave with pay.⁷
- 9.7 The duty of confidentiality of the Ethics Officer with respect to Complaints and any associated information is without prejudice to the duty of the Ethics Officer to cooperate with any duly authorized investigations or with any appeals processes under the Staff Regulations and Staff Rules.
- 9.8 The Ethics Officer shall in all cases seek to complete the review and preliminary assessment of a Complaint within thirty (30) days following receipt or gathering of all necessary information and documentation for such review and assessment. The Ethics Officer shall notify the Complainant about any delays in, as well as the probable timeframe for, completing the review and assessment of the Complaint. Without compromising the confidentiality or integrity of the processes under this Policy, the Ethics Officer shall regularly provide information to the Ethics Advisory Board in the aggregate on the length

⁶ See section 10, below.

⁷ Temporary reassignment or placement on special leave with pay can only be recommended where the Complainant is a staff member. In cases involving non-staff personnel remedies may be limited to those available in that person's particular contractual or similar arrangement with IRENA.

of time taken to conduct reviews and assessments of Complaints, so that the Board can effectively monitor the implementation of this Policy.

- 9.9 The Ethics Officer shall notify the Complainant in writing if the Ethics Officer determines that there is no *prima facie* case of retaliation. Should the Ethics Officer determine in such cases that there is an interpersonal problem within a particular department or office of the Agency, the Ethics Officer may additionally advise the Complainant of the existence of any informal conflict resolution mechanisms in the Agency.
- 9.10 If the Ethics Officer determines that there is no *prima facie* case of retaliation but considers that there is a managerial problem relating to a particular department or office of the Agency, the Ethics Officer should advise the Director-General, or the Director, AMS, or the Chief of Staff, as the case may be, as to what steps could be taken to address any conflicts in the workplace or to take any managerial action that may be necessary.

10. Action if Preliminary Review and Assessment Results in Determination of *Prima Facie* Case of Retaliation

- 10.1 If the Ethics Officer determines that there is a *prima facie* case of retaliation, the Ethics Officer shall refer the matter, together with all relevant information and documentation, for an investigation in accordance with the applicable policies and procedures of the Agency. Such investigation shall be carried out by a qualified investigative entity external to the Agency and independent from the Agency and its officials. Upon completion of such investigation, the Ethics Officer shall also be provided a copy of the investigation report.
- 10.2 If the Ethics Officer determines that the Investigative Entity may have an actual or apparent conflict of interest with the Complainant or with any of the matters described in the Complaint, the Ethics Officer shall refer the case to the Director, AMS, or to the Chief of Staff, as the case may be, to establish an alternative means for investigating the matter in accordance with the applicable policies and procedures of the Agency.
- 10.3 For purposes of determining whether, and what kind of, protection against relation may be warranted under this Policy and irrespective of any disciplinary process or other appropriate action that may result from the investigation, the Ethics Officer shall, upon receipt of the investigation report, conduct an independent review of the findings of the report and supporting information and documentation.
- 10.4 The purpose of such independent review shall be to determine whether the report and the supporting documents show, by *clear and convincing evidence*, that the Director-General and/or Agency officials concerned would have taken the retaliatory action alleged in the Complaint absent the Complainant's having engaged in a protected activity and that the alleged retaliatory action was not made for the purpose of punishing, intimidating or injuring the Complainant. Consequently, the Director-General and Agency officials concerned bear the burden of proving by *clear and convincing evidence* that they would have taken the alleged retaliatory action even if the Complainant had *not* engaged in the protected activity.
- 10.5 If, in the view of the Ethics Officer, such standard of proof has *not* been met by the Director-General and/or the Agency officials concerned, the Ethics Officer will consider that retaliation has occurred, and the Ethics Officer will determine that the Complainant is

entitled to protection against retaliation in accordance with this Policy. If the standard of proof has been met, the Ethics Office will consider that retaliation has not occurred.

- 10.6 In all cases, the Ethics Officer will inform the Complainant in writing of the Ethics Officer's considerations and determinations.
- 10.7 If the Ethics Officer considers that there has been retaliation against a Complainant, the Ethics Officer may, after consultation with the Complainant, recommend to the Director-General appropriate measures aimed not only at correcting negative consequences suffered by the Complainant as a result of the retaliatory action but also for protecting the Complainant from any further retaliation. Such measures may include, but are not limited to, the rescission of the retaliatory decision, including reinstatement, or, if requested by the Complainant, transfer to another office and/or function and/or change of reporting lines. For non-staff personnel, such measures shall not include reinstatement or extension of an engagement beyond its original date of completion. Without prejudice to the disciplinary process or any rights to due process under the Staff Regulations and Rules, such measures may also include the transfer of the person(s) who engaged in any retaliatory action.
- 10.8 Within thirty (30) working days, the Director-General shall provide a written decision to the Ethics Officer regarding the recommendations by the Ethics Officer for measures of protection. The Director-General's decision shall be made in consultation with the Ethics Officer, or in consultation with the Ethics Advisory Board should both the Ethics Officer and the Director-General deem such consultation appropriate or should the Ethics Officer and the Director-General fail to agree on the measures or protection. Subject to section 10.9, below, the decision must respect the confidentiality rights of the person who allegedly engaged in retaliation in relation to any ongoing disciplinary process.
- 10.9 The Ethics Officer shall communicate the Director-General's decision to the Complainant within five (5) working days after receipt and provide a copy of such communication to the Director, AMS, or the Chief of Staff, as the case may be, for implementation of the decision.
- 10.10 Complainants will be informed on a confidential basis by the Director-General, or the Director, AMS, or the Chief of Staff, as the case may be, of any disciplinary measures taken as a result of any retaliatory action.
- 10.11 Without compromising the confidentiality or integrity of the processes under this Policy or any disciplinary processes under the Staff Regulations and Rules and the applicable policies and procedures of the Agency, the Ethics Officer shall regularly provide information to the Ethics Advisory Board in the aggregate on the outcomes of Complaints referred for investigation, so that the Board can effectively monitor the implementation of this Policy.

11. Review of Administrative Decisions under Chapter 12 of the Staff Rules

- 11.1 The action or non-action of the Director-General on a recommendation from the Ethics Officer under section 10 above constitutes a contestable administrative decision under chapter 12 of the Staff Rules if such action or non-action has direct consequences affecting the terms and conditions of appointment of the Complainant.

- 11.2 Actions taken upon on any recommendation from the Ethics Officer under section 10, above, are without prejudice to also addressing matters mentioned in the Complaint that should be handled under any other Agency policy or process, as well as providing additional support to the Complainant through informal resolution mechanisms.
- 11.3 Recommendations of the Ethics Officer or any other individual performing the functions of the Ethics Officer in accordance with this Policy, or any other individual or entity engaged by the Agency to review determinations by the Ethics Officer under this Policy, do *not* constitute administrative decisions and are *not* subject to review under chapter 12 of the Staff Rules.
- 11.4 In addition, irrespective of whether they seek protection against retaliation in accordance with this Policy, staff members may, in any case, seek to challenge any administrative decision that they consider to be retaliatory in accordance with chapter 12 of the Staff Rules. Such recourse must comply with the time limits specified under those Rules.

12. Review of Ethics Officer Determinations

- 12.1 If, following a determination by the Ethics Officer under section 9 above that there is no *prima facie* case of retaliation, the Complainant wishes to have the matter reviewed further, he or she may, within thirty (30) days following notification of the Ethics Officer's determination, refer the matter, in writing, to the Director, AMS, or the Chief of Staff, as the case may be. The Director, AMS, or the Chief of Staff, as the case may be shall promptly select and refer the matter to an outside person or entity that is qualified to handle matters of ethics policies and practices. The Complainant shall be promptly notified about such referral.
- 12.2 The outside person or entity to whom the matter has been so referred will seek comments from the Complainant and relevant officials of the Agency on the request for review and undertake his or her own independent review of the matter, which shall include review of the action previously taken by the Ethics Officer and a determination of whether any additional action may be required, including whether referral for investigation is warranted in accordance with this Policy. Following the completion of such review, the outside person or entity will submit recommendations to the Ethics Officer, with a copy to the Director, AMS, or the Chief of Staff, as the case may be.
- 12.3 The Ethics Officer will implement the recommendations, if any, of the outside person or entity, including any recommendation to refer the matter for further investigation and action in accordance with this Policy.

13. Review of the Present Policy

- 13.1 The Director-General shall, in consultation with the Ethics Officer, review this Policy periodically, and at a minimum, every three (3) years. Following such review, the Director-General shall inform the Ethics Advisory Board of any proposed additions to or modifications of this Policy that may be warranted.
- 13.2 Following consultation with the Director-General and the Ethics Officer, the Ethics Advisory Board may recommend at any time to the IRENA Council additions to or modifications of this Policy.