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Policy on Handling Allegations of Unsatisfactory Conduct and Misconduct against the Director-General of the International Renewable Energy Agency, and on Investigations and the Disciplinary Process for such Conduct

Section 1 - Scope of Application

- 1.1 The present Policy applies to the Director-General of the International Renewable Energy Agency (IRENA).
- 1.2 This Policy should be read together with the following:
 - 1.2.1 The Statute of IRENA;
 - 1.2.2 The Staff Regulations and Staff Rules of IRENA, including the Code of Conduct;
 - 1.2.3 The Financial Regulations and Procedures of IRENA;
 - 1.2.4 The Policy on Ethics and Conflicts of Interest and,
 - 1.2.5 Any IRENA policies and procedures related to and consistent with any of the foregoing.

Section 2 - Definitions

- 2.1 For the purposes of the present Policy, the following terms shall have the following meanings:
 - 2.1.1 “Abuse of authority” means improper use of a position of influence, power or authority against another person. This is particularly serious when a person uses his or her influence, power or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion. Abuse of authority may also include conduct that creates a hostile or offensive work environment which includes, but is not limited to, the use of intimidation, threats, blackmail or coercion. Discrimination and harassment, including sexual harassment, are particularly serious when accompanied by abuse of authority.
 - 2.1.2 “Administrative Measures” mean a written reprimand placed on the official records of IRENA pertaining to the status of the Director-General, together with any written report of the findings leading to such reprimand and any response to such findings by the Director-General.

- 2.1.3 The “Assembly” is the IRENA Assembly within the meaning of Article IX of the Statute of IRENA.
- 2.1.4 The “Council” is the IRENA Council within the meaning of Article X of the Statute of IRENA.
- 2.1.5 The “Director-General” is the head and chief administrative officer of the IRENA Secretariat within the meaning of Articles IX(I) and XI(B) of the Statute of IRENA.
- 2.1.6 “Disciplinary Measures” means one or more of those measures specified in IRENA Staff Rules 111.1(c)(i) through 111.1(c)(vi).
- 2.1.7 “Discrimination” means any unfair treatment or arbitrary distinction based on a person’s race, sex, religion, nationality, ethnic origin, sexual orientation, disability, age, language, social origin, or other similar shared characteristic or trait. Discrimination may be an isolated event affecting one person or a group of persons similarly situated, or it may manifest itself through harassment or abuse of authority.
- 2.1.8 “Harassment” means any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person, when such conduct interferes with work or creates an intimidating, hostile or offensive work environment. Harassment may take the form of words, gestures or actions which tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another. Harassment normally implies, but does not require there to be, a series of incidents.
- 2.1.9 “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 intergovernmental body, or an outside entity qualified to carry out an investigation, such as a qualified law firm, with whom the IRENA Council will have established or will establish, from time to time, an agreement to perform the investigative functions set forth herein.
- 2.1.10 “Investigation” means a process, consistent with the highest international standards,¹ of gathering information to establish facts in order to allow for a determination as to whether the Director-General has engaged in suspected unsatisfactory conduct. Investigations are administrative in nature.
- 2.1.11 “IRENA Council Disciplinary Committee” means the committee of five (5) members of the Council designated to advise the President on matters concerning disciplinary proceedings against the Director-General for alleged misconduct. Four (4) members of the IRENA Council Disciplinary Committee shall be designated by the Council from each of the four regional groups mentioned in Rule 69 of the Rules of Procedure of the Assembly, and the fifth member shall be the Chair of the Council.

¹ See, e.g., “Uniform Principles and Guidelines for Investigations,” 2nd ed., Conference of International Investigators (2009), [available at this link](#).

- 2.1.12 “Managerial Action” means an oral or written caution, warning, or advisory, or direction to undertake training that is considered necessary to address the Director-General’s ongoing conduct.
- 2.1.13 “Preliminary Assessment” means the review and analysis of the allegations of possible unsatisfactory conduct by the Director-General in order to determine whether there is probable cause to believe that such possible unsatisfactory conduct has occurred such that an investigation should be initiated and conducted.
- 2.1.14 The “President” is the President of the IRENA Assembly within the meaning of Article IX(E) of the Statute of IRENA.
- 2.1.15 “Protected Activity” means acts relating to:
- (a) the reporting by a staff member or any other person or entity of the failure of the Director-General to comply with the Director-General’s obligations under the IRENA Statute and/or Financial Regulations and Procedures and/or Staff Regulations and Rules, including the Code of Conduct and/or any applicable policies or procedures relating to any of the foregoing;
 - (b) the reporting by a staff member or any other person or entity of the Director-General requesting an official, or a staff member, or another person, to engage in any act or omission that would result in the failure of such official, staff member, or other person to comply with his/her obligations under the IRENA Statute and/or Financial Regulations and Procedures and/or Staff Regulations and Rules, including the Code of Conduct, and/or any applicable policies or procedures relating to any of the foregoing;
 - (c) Cooperating in good faith with a duly authorized investigation or audit.
- 2.1.16 “Sexual Harassment” means any unwelcome conduct of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation, when such conduct interferes with work, is made a condition of employment, or creates an intimidating, hostile, or offensive working environment. Sexual harassment may occur in the workplace or in connection with work, including outside the workplace, outside official working hours, or during official travel or social functions related to work. While typically involving a pattern of behaviour, sexual harassment can take the form of a single incident. In assessing the reasonableness of expectations or perceptions, the perspective of the person who is the target of the conduct at issue shall be considered. Sexual harassment is the manifestation of a culture of discrimination and privilege based on unequal gender relations and other power dynamics. Sexual harassment may involve any conduct of a verbal, non-verbal or physical nature, including written and electronic communications. Sexual harassment may occur between persons of the same or opposite genders, and individuals of any gender can be either the individuals affected by sexual harassment or the alleged offenders. Sexual harassment may be perpetrated by anyone in the workplace, whether a supervisor, a peer, a subordinate, a consultant, an individual contractor, or other person subject to the IRENA Code of Conduct.

- 2.1.17 “Sexual abuse” means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.
- 2.1.18 “Sexual exploitation” means any actual or attempted abuse of a position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.
- 2.1.19 “Retaliation” 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.

Section 3 - Unsatisfactory Conduct and Misconduct

- 3.1 “Unsatisfactory conduct” is any conduct, whether an act or omission, by the Director-General that constitutes a failure by the Director-General to comply with the Director-General’s obligations under the IRENA Statute or Financial Regulations and Procedures or Staff Regulations and Rules, including the Code of Conduct, or any applicable policies or procedures relating to any of the foregoing.²
- 3.2 Unsatisfactory conduct may lead to the imposition of administrative measures or managerial action in accordance with this Policy in cases in which the conduct by the Director-General has not been established as having constituted misconduct but, nevertheless, has been determined to constitute a failure by the Director-General to satisfy the standards of conduct expected of the Director-General under the IRENA Statute or Financial Regulations and Procedures or Staff Regulations and Rules of IRENA, including the Code of Conduct, or any policies or procedures relating to any of the foregoing.
- 3.3 Unsatisfactory conduct by the Director-General which, in accordance with this Policy, is established as having constituted misconduct³ may lead to the imposition of disciplinary measures.
- 3.4 By way of example, misconduct by the Director-General for which disciplinary measures may be imposed includes, but is not limited to, the following:
 - 3.4.1 Acts or omissions that contravene the duties and obligations of the Director-General as set forth in the Financial Regulations and Procedures, or in Article 2 of the Staff Regulations, Chapter 2 of the Staff Rules, or in the Code of Conduct, or in any applicable policies or procedures;
 - 3.4.2 Acts or omissions that contravene applicable national or international laws, such as theft, fraud, corruption, sale or possession or transporting illicit substances or information, whether or not in connection with official activities;

² Staff Regulation 1.1 provides that “the Staff Regulations apply to all staff at all levels, including the Director-General.”

³ Pursuant to Staff Rule 111.1, “misconduct” occurs when a staff member (which includes the Director-General) “fails to comply with his or her obligations under the Staff Regulations and Rules, the Code of Conduct, the Financial Regulations and Procedures, and directives issued by the Director-General.”

- 3.4.3 Misrepresentation, forgery, alteration of an official document with the intent to mislead, false certification, or failure to disclose material facts in connection with any claim or benefit from IRENA or that would otherwise further the personal interests of the Director-General or of any family member or acquaintance;
 - 3.4.4 Discrimination, harassment, including sexual harassment, sexual exploitation, sexual abuse, retaliation, or abuse of authority;
 - 3.4.5 Misuse of the property, whether tangible or intangible, or the information belonging to IRENA;
 - 3.4.6 Misuse of office, including breach of confidentiality, or of the privileges and immunities of IRENA accorded to the Director-General;
 - 3.4.7 Conduct that would bring discredit to IRENA or that otherwise fails to observe the standards of conduct expected of an international civil servant;⁴
 - 3.4.8 Assisting in, contributing to, covering up, or failing to report or address misconduct by any person subject to the authority of IRENA and the Director-General.
- 3.5 Sexual exploitation, sexual abuse, and any misconduct involving deceit by the Director-General constitutes serious misconduct within the meaning of the Staff Regulations and Rules.

Section 4 - Reporting of Possible Unsatisfactory Conduct

- 4.1 Any reports by staff members or other persons or entities of possible unsatisfactory conduct by the Director-General will be sent directly to the Investigative Entity in accordance with instructions provided on a conspicuous public website of the Investigative Entity and of IRENA. Reports may be made anonymously through a hotline established by IRENA and regularly monitored by the Investigative Entity. The Investigative Entity may receive information about unsatisfactory conduct by the Director-General from staff members or any other persons or entities. This includes any information obtained during an investigation, a disciplinary process, an audit, a management enquiry or review, a judgment from a national court or information from another entity or organization.
- 4.2 The Director-General shall not retaliate against any staff member or other person or entity (*e.g.*, an institutional contractor) for reporting possible unsatisfactory conduct involving the Director-General or anyone else subject to the authority of IRENA to the Investigative Entity or to any other official whose responsibility it is to undertake duly authorized audits or investigations.
- 4.3 Reports of possible unsatisfactory conduct by the Director-General should contain sufficient details for the conduct to be assessed under the present Policy, including, but not limited to, the following:

⁴ See “Standards of Conduct for the International Civil Service,” International Civil Service Commission, 2013, [available at this link](#).

- 4.3.1 A description of the possible unsatisfactory conduct with as much detail as possible regarding the nature of the alleged conduct;
- 4.3.2 The time, place, and persons who may have also been involved, whether as the subjects or objects of the alleged conduct;
- 4.3.3 The identities and locations of any potential witnesses to the alleged conduct; and,
- 4.3.4 Any supporting information or documentation available or a description of where such information or documentation can be found.

Section 5 - Preliminary Assessment of the Report of Possible Unsatisfactory Conduct

- 5.1 Upon receiving a report or any other information of possible unsatisfactory conduct by the Director-General, the Investigative Entity will promptly log the report and shall promptly undertake a preliminary assessment as to whether or not in accordance with this Policy an investigation into such possible unsatisfactory conduct is warranted.
- 5.2 In undertaking such preliminary assessment of the reported possible unsatisfactory conduct by the Director-General, the Investigative Entity may consider the following:
 - 5.2.1 Whether, in accordance with this Policy, the alleged conduct could be determined to amount to misconduct leading to the imposition of disciplinary measures or could otherwise be considered as unsatisfactory conducting leading to the imposition of administrative measures or managerial action;
 - 5.2.2 Whether the report of possible unsatisfactory conduct has been made in good faith and has been provided with sufficient information or detail that would form the basis for an effective investigation into such alleged conduct;
 - 5.2.3 Whether there is a likelihood that an investigation into the alleged unsatisfactory conduct would reveal sufficient facts or evidence for the alleged unsatisfactory conduct to be determined to amount to misconduct leading to the imposition of disciplinary measures or could otherwise be considered as unsatisfactory conduct leading to the imposition of administrative measures or managerial action; and,
 - 5.2.4 Any other facts, circumstances, or factors that reasonably require an investigation into the alleged conduct.
- 5.3 The Investigative Entity retains the ultimate authority to decide whether, in accordance with this Policy, the information in the report of possible unsatisfactory conduct by the Director-General merits any further action under this Policy.
- 5.4 Upon completing the preliminary assessment, the Investigative Entity shall either:
 - 5.4.1 Initiate an investigation in accordance with this Policy into all or any part of the matters that are raised in the report of possible unsatisfactory conduct by the Director-General or that otherwise arise from such report; or,

- 5.4.2 Close the matter, logging such closure with a written explanation of the reasons therefor.
- 5.5 In cases in which the Investigative Entity decides to close the matter following a preliminary assessment in accordance with this Policy, the Investigative Entity will promptly inform the President in writing of the nature of the reported possible unsatisfactory conduct and the reasons for determining that the matters raised in or arising from the report do not merit further investigation. The President promptly shall so inform the IRENA Council Disciplinary Committee.
- 5.6 If the Investigative Entity determines that an investigation into the reported possible unsatisfactory conduct by the Director-General is warranted, the Investigative Entity shall promptly conduct such investigation in accordance with this Policy. The Investigative Entity shall promptly also inform the President in writing that such a report has been made and that it is investigating the alleged conduct by the Director-General.

Section 6 - Investigations

- 6.1 Under this Policy, the purpose of an investigation is to gather information to establish the facts that gave rise to the matters in or arising from the report of possible unsatisfactory conduct by the Director-General. The investigator(s) deployed by the Investigative Entity shall pursue all appropriate lines of enquiry and collect and record information, both inculpatory or exculpatory, in order to establish the facts relevant to determining whether, in accordance with this Policy, the alleged conduct could be determined to amount to misconduct leading to the imposition of disciplinary measures or could otherwise be considered as unsatisfactory conduct leading to the imposition of administrative measures or managerial action.
- 6.2 Neither the Investigative Entity nor the investigator(s) shall make a legal determination about the established facts. Any such determination(s) shall be made in accordance with this Policy solely by the President upon the advice of the IRENA Council Disciplinary Committee.
- 6.3 The Director-General, staff members, and any persons subject to the authority of or under contract with IRENA, are required to fully cooperate with all duly authorized investigations and, whenever requested, to promptly provide any records, documents, information, and communications technology equipment or other electronic information under the control of the Agency or used in connection with the official activities of the Agency. Any failure to cooperate with any such request may be considered unsatisfactory conduct that may amount to misconduct.
- 6.4 Any investigation conducted under this Policy shall comply with the following procedures:
- 6.4.1 The investigator(s) may digitally record any interview. Interviewees are not permitted to record their interviews. If an investigation report is to be transmitted to the President for possible disciplinary or administrative action, a written record, such as transcripts of the digitally recorded interviews of the subject(s) of the investigation and key witnesses and synopses of the interviews of the other interviewees, shall be prepared and transmitted with the investigation report.

- 6.4.2 In cases in which an interview is not digitally recorded, a record of the interview, such as a synopsis, written statement or record of questions and answers, shall be prepared and shared with the interviewee for the interviewee's signature. Interviewees shall be given a reasonable opportunity to review and provide comments on the record of interview, including comments regarding the interview process, before signing. If the interviewee does not review and/or sign the record of the interview, the reasons given, if any, shall be noted on the record of the interview or in the investigation report. The interviewee, other than those specified in section 6.4.4, below, shall not normally be entitled to retain a copy of the record of the interview, but the President may authorize the interviewee to retain a copy of the record of the interview if strictly necessary to protect the legal interests of the interviewee.
- 6.4.3 Interviewees, other than those specified in section 6.4.4, below, are not entitled to the presence of a third party, including counsel, during an interview. If the investigator(s) determine that an interviewee has special needs, such as being under 18 years old or requiring other assistance to participate, a "support person" may be present and/or such other required assistance shall be provided. A support person's role shall be limited to facilitating the conduct of the interview, where appropriate, and not to advocate on behalf of the interviewee or otherwise participate in the interview. The rescheduling of interviews owing to the unavailability of a support person should normally be avoided. The investigator(s) will determine whether an interpreter is required for an interview.
- 6.4.4 The Director-General and any other person identified as the subject of an investigation shall be:
- (a) Permitted to be accompanied by a person selected by the Director-General or by any such other person, as the case may be, to act as an observer during an interview. An observer shall not participate in any way in the interview, including by speaking or gesturing in any manner. If the observer does not abide by this requirement, the observer will be removed from the interview. An observer may take notes of the interview in handwritten form and must provide a copy of such notes to the investigator(s). The Director-General and such other person, as the case may be, shall ensure that the observer is available at the time scheduled. Interviews shall not be rescheduled owing to the unavailability of such observer;
 - (b) Informed in writing, prior to or at the start of the interview, that the Director-General and, if such is the case, the other person(s), is or are the subject of an investigation and of the nature of the alleged unsatisfactory conduct being investigated;
 - (c) Informed in writing of the name(s) of the investigator(s) prior to the commencement of the interview;
 - (d) Given a reasonable opportunity during the interview to present his or her version of the facts and circumstances relevant to the alleged unsatisfactory conduct and to present any other information that the Director-General or other subject of the investigation considers relevant to the alleged conduct;

- (e) Given a reasonable opportunity to provide the investigator(s) with names and contact details of persons who may be in possession of relevant information about the matter under investigation;
 - (f) Given a reasonable opportunity to submit, within two (2) calendar weeks following the date of an interview, a written statement providing further information about the matters under investigation and/or the matters covered during the interview, together with relevant documentary information. Requests for extensions of time for submitting such statements must be made in writing to the investigator(s) and must include the reason for the requested extension. The President shall decide whether to grant any such extension of time. Failure to provide such a statement within the time granted shall be considered as a decision by the subject of the investigation to decline to provide such statement; and
 - (g) Provided with a copy of the digital record of the interview, if the interview was digitally recorded, or otherwise with a written record, if available.
- 6.5 The investigator(s) shall have direct and prompt access to all records, documents or other information under the control of the Agency. However, other than records concerning financial disclosures required under the Staff Regulations and Rules, including the Code of Conduct, the investigator(s) shall not have access to the confidential records, including documents, communications, and other information concerning or relating to confidential advice provided by the Ethics Officer.
- 6.6 Where relevant and accessible, the investigator(s) may include as part of the investigative record, information and documentation obtained from national authorities, or persons or entities outside of IRENA.

Section 7 - Investigation Report

- 7.1 At the conclusion of the investigation, the Investigative Entity shall prepare an investigation report. Such report shall contain an analysis of the information obtained during the investigation and shall be accompanied by copies of all supporting documentation, which may include records of interviews, any written statements provided by the subject of the investigation or by witnesses, documents and/or photographs or other reproductions of any physical evidence.
- 7.2 The investigation report shall set out in as much detail as possible the factual findings resulting from the investigation.
- 7.3 In cases where the investigation includes a finding of financial loss to the Agency as a result of the actions or omissions of the Director-General, the investigation report should, where possible, specify the amount of financial loss attributable to the Director-General and include a description of how such loss may have resulted from unsatisfactory conduct purposefully or negligently undertaken by the Director-General. This information may be used to effect financial recovery from the Director-General pursuant to Financial Regulation 12.7 and Financial Procedure 112.4.

- 7.4 So that the information may be used to draw adverse inferences, the investigation report should detail any situations in which the Director-General:
 - 7.4.1 Fails, without a satisfactory reason, to attend one or more scheduled interviews with the investigator(s);
 - 7.4.2 Provides false information or fails to disclose or otherwise withholds material information;
 - 7.4.3 Fails, during an investigation, to mention a matter or provide information without a satisfactory explanation, which the Director-General subsequently seeks to rely on during any disciplinary process; or,
 - 7.4.4 Refuses to provide the investigator(s) with requested information or documentation that the Director-General has or can reasonably obtain or access.
- 7.5 If the Director-General is on certified sick leave, the investigative and disciplinary processes shall normally proceed as envisaged in the present Policy, but the Investigative Entity shall obtain an opinion from a qualified Medical Doctor as to the capacity of the Director-General to effectively participate in the process, including in the investigation of possible unsatisfactory conduct. The Investigative Entity shall include the conclusions of such medical opinion in the investigation report. If the Director-General is on any other leave, including maternity and paternity leave, the investigative and disciplinary processes should normally proceed as envisaged in the present Policy.

Section 8 - Administrative Leave during the Investigation and Disciplinary Process

- 8.1 The Director-General may be placed on administrative leave with or without pay at any time after an allegation of possible unsatisfactory conduct has been made and pending the completion of the disciplinary process pursuant to this Policy. The period of administrative leave may continue until the completion of the disciplinary process. Such action is without prejudice to the rights of the Director-General and does not constitute a disciplinary measure. Whenever placed on administrative leave, the Director-General shall be given a written statement of the reason(s) for such leave and shall be informed of its likely duration.
- 8.2 A decision to place the Director-General on administrative leave without pay shall be without prejudice to the continuation of any education grant to which the Director-General may be entitled, as well as without prejudice to the continuation of medical insurance coverage and participation in the Agency's Staff Provident Fund. The amount of pay withheld from the Director-General during the period that the Director-General is on administrative leave without pay shall be net of all contributions by the Director-General and the Agency for maintaining such entitlements and benefits.
- 8.3 The decision to place a Director-General on administrative leave with pay may be made only by the President, after consulting with the IRENA Council Disciplinary Committee, on a recommendation by the Investigative Entity at any time following a report of possible unsatisfactory conduct and following the Investigative Entity's determination that at least one of the following circumstances has been met:

- 8.3.1 The Director-General is unable to continue to effectively perform the Director-General's functions, given the nature of the allegations set forth in the report of possible unsatisfactory conduct;
- 8.3.2 Continued service by the Director-General would create a risk that the Director-General could destroy, conceal or otherwise tamper with potential evidence, or interfere in any way with the investigation or disciplinary process, including by retaliating against individuals or intimidating a witness;
- 8.3.3 The continued performance by the Director-General of official functions and presence in the Agency's premises could constitute a security or financial risk to the Agency and/or its personnel, or could otherwise prejudice the interests or reputation of the Agency;
- 8.3.4 The Director-General's continued presence in the Agency's premises could have a negative impact on the preservation of a harmonious work environment; or
- 8.3.5 There is a risk of repetition or continuation of the alleged unsatisfactory conduct.
- 8.4 The Director-General may be placed on administrative leave without pay only by the President, after consulting with the IRENA Council Disciplinary Committee, on a recommendation by the Investigative Entity that at least one of the following conditions has been met:
 - 8.4.1 There are reasonable grounds to believe (probable cause) that the Director-General engaged in sexual exploitation and/or sexual abuse;
 - 8.4.2 There are exceptional circumstances that warrant the placement of the Director-General on administrative leave without pay because the alleged unsatisfactory conduct, if established, would be of such gravity that it would warrant separation or dismissal and there is information before the President about the unsatisfactory conduct that makes it more likely than not (preponderance of the evidence) that the Director-General, in fact, has engaged in the alleged unsatisfactory conduct.
- 8.5 Provided that at least one of the conditions of section 8.4 above has been met, the President, after consulting with the IRENA Council Disciplinary Committee, on a recommendation by the Investigative Entity, may convert the Director-General's administrative leave with pay to administrative leave without pay at any time pending the conclusion of the investigation or disciplinary process.
- 8.6 If the Director-General is placed on administrative leave without pay and either the allegation of unsatisfactory conduct is subsequently not sustained or it is subsequently found that the conduct at issue does not warrant dismissal or separation, any pay withheld shall be restored. The Agency may decide not to restore any pay withheld for the period during which the Director-General was placed on administrative leave without pay if the Director-General separates from the Organization for any reason prior to the completion of the investigation or disciplinary process, and the matter cannot be pursued as a result of lack of cooperation on the part of the Director-General.

- 8.7 Notice of placement of on administrative leave may be communicated to the Director-General in hard copy or electronically. Where transmission to the Director-General is in hard copy, this shall be done by registered mail, or by hand against a signed acknowledgement of receipt.
- 8.8 When placed on administrative leave, the Director-General shall:
 - 8.8.1 Surrender any official credentials, including any grounds pass, any laissez-passers or other travel documents, or any other badges or insignia that confer access to the Agency's premises or information and communications technologies;
 - 8.8.2 Return any Agency-owned equipment that has been assigned;
 - 8.8.3 Obtain written approval from the President if the Director-General requires access to Agency premises or information and communications technologies during the period of administrative leave, such access normally being granted only to enable the Director-General to prepare and defend his or her response to charges of misconduct;
 - 8.8.4 Obtain written approval from the President before leaving the duty station during the period of administrative leave;
 - 8.8.5 Immediately provide to the President, and update as necessary during the period of administrative leave, the Director-General's current contact information, including telephone number(s), personal email address(es) and current residential address;
 - 8.8.6 Remain available to be contacted by the Agency and the Investigative Entity and its investigator(s) through the contact information provided;
 - 8.8.7 Remain available for the purposes of cooperation with an investigation, participate in the disciplinary process, and follow any related directions and instructions issued by the President; and,
 - 8.8.8 Request and obtain permission from the President before engaging in any outside activities.
- 8.9 In situations in which the President or Investigative Entity has made at least three documented attempts to contact the Director-General on administrative leave using the most recent contact information provided, and the Director-General does not contact the President or Investigative Entity within three weeks of the last documented attempt, then the Director-General will be considered as having resigned from his or her post.

Section 9 - Initial Action(s) on an Investigation Report

- 9.1 Where the Investigative Entity finds that there is no factual basis indicating that the Director-General may have engaged in unsatisfactory conduct, a written closure notice shall be provided to the President, providing a summary of the findings and reasons therefor. The President shall then inform the Director-General that the investigation has been closed. The President shall also inform the IRENA Council Disciplinary Committee.

- 9.2 Where the Investigative Entity determines that there is a factual basis indicating that the Director-General has engaged in unsatisfactory conduct, the Investigative Entity shall submit to the President the investigation report and all relevant supporting documentation, including copies of all written records of interviews and copies of any digital recordings of interviews. The President shall forward such investigative documentation to the IRENA Council Disciplinary Committee.

Section 10 - Disciplinary Process

- 10.1 Upon receipt of the investigation report, the President in consultation with the IRENA Council Disciplinary Committee shall assess the investigation report and supporting information and any comments from or information provided by the Director-General. The President in consultation with the IRENA Council Disciplinary Committee may seek advice from the IRENA External Auditor, the IRENA Audit Office, and/or the IRENA Legal Adviser with respect to points of law or process.
- 10.2 On the basis of the investigation report, supporting information and any additional information obtained, the President, in consultation with the IRENA Council Disciplinary Committee, shall decide whether to:
- 10.2.1 Initiate a disciplinary process pursuant paragraph 10.3, below, by issuing written charges of misconduct;
 - 10.2.2 Take managerial actions and/or administrative measures, if the unsatisfactory conduct, in the view of the President in consultation with the IRENA Council Disciplinary Committee, does not rise to the level of misconduct; or
 - 10.2.3 Close the matter, provided that in such case, the President in consultation with the IRENA Council Disciplinary Committee shall inform the Director-General.
- 10.3 Following a decision to initiate a disciplinary process, the President in consultation with the IRENA Council Disciplinary Committee shall provide the Director-General with:
- 10.3.1 The written charges of misconduct, which shall include the specific obligations or standards of conduct that the Director-General is accused of having breached;
 - 10.3.2 Notification of:
 - (a) The Director-General's right to respond to the allegations of misconduct and to provide any evidence within a specified period in accordance with section 10.6, below;
 - (b) The Director-General's right to seek the assistance of counsel at the Director-General's own expense; and
 - (c) In relevant cases, the possibility of financial recovery if misconduct is established;
- 10.4 A copy of the investigation report and the relevant supporting documentation shall be provided to the Director-General. The copies of such documentation may be subject to any

measures, including redaction, to ensure that the interests of the Agency or its staff members, including privileged information and safety and security concerns, are not adversely affected by the disclosure of particular information.

- 10.5 The allegations of misconduct, investigation report and supporting documentation may be transmitted to the Director-General in hard copy or electronically. Where transmission to the Director-General is in hard copy, this shall be done by registered mail, or by hand against a signed acknowledgement of receipt.
- 10.6 The Director-General shall be given an opportunity to respond in writing to the charges of misconduct within one month of the date of receipt of the charges. The Director-General may request, in writing, from the President additional time to respond. Any such request must be made prior to the expiration of the deadline and must contain reasons for the request. If no response to the allegations of misconduct is received within the specified time limit, the matter may nevertheless proceed, without further notice to the Director-General.
- 10.7 The President in consultation with the IRENA Council Disciplinary Committee may seek further information from any relevant source. Any new additional information received by the President must be provided to the Director-General for a further response. In each such case, the Director-General shall be given an additional two weeks to respond to such additional information. The Director-General may request, in writing, additional time to respond. Any such request must be made prior to the expiration of the deadline and must contain reasons for the request. If no response on the additional information is received within the specified time limit, the matter may nevertheless proceed, without further notice to the Director-General.
- 10.8 During the disciplinary process, the Director-General shall be responsible for including in his or her response(s) all information relating to the allegations of misconduct that the Director-General wishes the President and the IRENA Council Disciplinary Committee to consider.

Section 11 - Outcome of the Disciplinary Process

- 11.1 The President, in consultation with the IRENA Council Disciplinary Committee, shall apply the following standards of proof in determining whether the Director-General has engaged in misconduct and, in such case, in deciding what disciplinary measure should be imposed as a consequence:
 - 11.1.1 In deciding whether to impose the disciplinary measure of dismissal or summary dismissal upon the Director-General, there shall have been established “clear and convincing evidence” that the Director-General has engaged in misconduct warranting such disciplinary measure. Such standard of proof is less than the standard of proof of “beyond a reasonable doubt” that may apply to the determination of criminal liability; and
 - 11.1.2 In deciding whether to impose any other disciplinary measure(s) upon the Director-General, there shall have been established “by a preponderance of the evidence” (*i.e.*, that it is more likely than not) that the Director-General has engaged in misconduct warranting any such disciplinary measure(s).

- 11.2 Other than the disciplinary measures of dismissal or summary dismissal, one or more other disciplinary measures may be imposed upon the Director-General for having engaged in misconduct, as warranted by the facts and circumstances.
- 11.3 On the basis of the investigation report, all supporting documentation and responses from the Director-General, the President in consultation with the IRENA Council Disciplinary Committee, shall decide whether to:
 - 11.3.1 Take no further action;
 - 11.3.2 No longer pursue the matter as a disciplinary case and determine whether to impose administrative measures and/or require managerial action to be taken; or
 - 11.3.3 Impose a disciplinary measure.
- 11.4 Such decision of the President, in consultation with the IRENA Council Disciplinary Committee shall be communicated in writing to the Director-General, the Council, and the Assembly.
- 11.5 The Director-General may be subject in any case to financial recovery for any losses found to be attributable to unsatisfactory conduct, whether or not having been established as misconduct, by the Director-General. The President, in consultation with the IRENA Council Disciplinary Committee, may then decide to recover, in part or in full, any financial loss suffered by the Agency. The President, in consultation with the IRENA Council Disciplinary Committee, may consult the IRENA External Auditor, the IRENA Audit Office, or the IRENA Legal Adviser with respect to points of law or process with respect to the financial recovery.
- 11.6 If the Director-General resigns or otherwise separates from service before the conclusion of investigative and/or disciplinary processes, the President, in consultation with the IRENA Council Disciplinary Committee, may decide to withhold the estimated financial loss suffered by the Agency from the Director-General's final separation emoluments and entitlements, until the investigation has been concluded and the findings support the imposition of financial recovery. If the findings do not support the imposition of financial recovery, any such withheld amount shall be restored. In cases when the investigative and/or disciplinary processes cannot be finalized owing to the former Director-General's lack of cooperation, the Agency shall have the uncontested right to recovery of the amount of the financial loss.

Section 12 - Disclosure of Information Obtained During an Investigation

- 12.1 All information obtained at any stage during the reporting of possible unsatisfactory conduct, the preliminary assessment thereof, and the investigation and the disciplinary process, as set forth in this Policy, shall be considered confidential.
- 12.2 Should the Assembly or the full Council require any such information, the President shall provide a summary of the report of possible unsatisfactory conduct by the Director-General, a summary of any investigation report with the names of the complainant(s) and witnesses redacted, and a summary of the outcome of the investigation and disciplinary process, if any.

Section 13 - Process for Appeals by the Director-General

- 13.1 Within ninety (90) days following any decision by the President, the Director-General may seek to appeal the decision of the President regarding any disciplinary measure, administrative measure, or managerial action imposed or required.
- 13.2 The Director-General shall appeal any such decision by commencing an arbitration against IRENA pursuant to the UNCITRAL Arbitration Rules then obtaining. There shall be one arbitrator appointed for the arbitration under the Rules. The President shall designate the official of IRENA who shall act as the representative of the Respondent (i.e., IRENA) for purposes of such arbitration.
- 13.3 The award of the arbitral tribunal shall be limited to ruling on the decision(s) of the President under appeal, and such award may result only in compensation. The arbitral tribunal shall have no authority to order special, exemplary, or punitive damages, or to order rescission of any decision of the President that is the subject of the appeal. Any award of interest shall be simple interest only and shall be at the rate used for any interest payments under the IRENA pension scheme.
- 13.4 The arbitral award shall be final and binding on the parties, and the award shall not be subject to further appeal or judicial review in any jurisdiction.