

Internal Oversight Division

Investigation Policy

2019 EDITION

TABLE OF CONTENTS

LIST OF ACRONYMS.....	3
1. INTRODUCTION AND PURPOSE.....	4
2. SCOPE AND AUTHORITY	4
3. ALLEGATIONS OF MISCONDUCT AND WRONGDOING.....	5
4. INITIATING INVESTIGATIONS	6
5. PRINCIPLES GOVERNING THE INVESTIGATIVE PROCESS.....	6
6. REPORTS.....	8
7. EFFECTIVE DATE AND REVIEW	9

LIST OF ACRONYMS

HRMD	Human Resources Management Department
IAOC	Independent Advisory Oversight Committee
IOD	Internal Oversight Division
WIPO	World Intellectual Property Organization

1. INTRODUCTION AND PURPOSE

1. The WIPO Investigation Policy (hereinafter the Policy) establishes the framework and provides governing principles for the investigation function within the World Intellectual Property Organization (WIPO).
2. As mandated by the Internal Oversight Charter, the Policy is established by the Director, Internal Oversight Division (IOD) in consultation with Member States¹.
3. The Policy is consistent with WIPO regulations, rules, and related administrative issuances, and has been prepared in accordance with generally accepted investigation standards and good practices of organizations of the United Nations system² as reflected in the Uniform Principles and Guidelines for Investigations³.
4. The Policy aims to:
 - (a) Protect the rights and reaffirm the duties of WIPO staff members, contractors and other personnel involved in investigative activities, including subjects of investigations, in accordance with relevant WIPO regulations and rules, and the principle of fairness;
 - (b) Enhance the ability of the Director, IOD to carry out effectively and independently the function of investigation entrusted to him/her, and thereby protect the interests of WIPO; and
 - (c) Promote accountability, a culture of ethics and integrity, and good governance within WIPO.
5. To implement this Policy, ensure the objectivity, impartiality, and quality of IOD investigative activities, and guide WIPO staff members, contractors and other personnel in understanding the investigation function within WIPO, the Director, IOD may establish written procedures and guidelines, including the WIPO Investigation Manual⁴.

2. SCOPE AND AUTHORITY

6. An investigation is a formal fact-finding inquiry to examine allegations of or information concerning misconduct or other wrongdoing involving WIPO personnel in order to determine whether they have occurred and if so, the person or persons responsible. Investigations may also examine alleged wrongdoing by other persons, parties or entities, deemed to be detrimental to WIPO.
7. The Director, IOD has overall authority and responsibility for investigating allegations of or information concerning misconduct and other wrongdoing falling within his/her mandate.
8. This Policy applies to all WIPO staff members, contractors and other personnel.

¹ Internal Oversight Charter, paragraph 28(b). The last version of the Internal Oversight Charter was approved by the General Assembly at its 50th Session with effect from October 2, 2018. The Investigation Policy was submitted to the Member States for consultation *via* Note verbale C. N 3913 dated June 28, 2019.

² Internal Oversight Charter, paragraphs 8 and 12.

³ As endorsed by the 10th Conference of International Investigators, 2009.

⁴ Internal Oversight Charter, paragraph 28(c).

9. This Policy normally does not extend to those areas for which separate provisions have been made for review, notably those covered by the conflict resolution mechanisms available to staff under Staff Regulation 11.4 and the related Staff Rules. In particular:

(a) A staff member who wishes to submit a formal complaint of discrimination and/or workplace harassment against another staff member should normally submit it to the Director General in accordance with Staff Rule 11.4.1.

(b) Complaints of retaliation for reporting possible misconduct or cooperating with an oversight activity should be addressed to the Ethics Office⁵.

10. However, the Director General or the Ethics Office may later refer the matter to IOD for investigation, in which case IOD will conduct investigative activities in accordance with this Policy.

11. An investigation is administrative in nature. It is a fact-finding exercise, not a punitive undertaking. The investigation function is part of WIPO's internal justice system, which is based on the Organization's internal regulations and rules, not on national laws. Where the subject of the investigation is a staff member, the Director, Human Resources Management Department (HRMD) may, on the basis of the investigative findings, initiate disciplinary proceedings by way of a charge letter pursuant to Staff Rule 10.1.2. The segregation of functions between investigation and disciplinary action provides necessary checks and balances for the proper administration of justice.

3. ALLEGATIONS OF MISCONDUCT AND WRONGDOING

12. WIPO staff members, contractors and other personnel have a duty to report wrongdoing in WIPO⁶, provided there is a reasonable cause to suspect that wrongdoing occurred.

13. The Director, IOD shall be available to receive directly, from anyone, allegations of misconduct and other wrongdoing including, but not limited to, fraud and corruption, waste, abuse of privileges and immunities, abuse of authority, violation of WIPO regulations and rules or any other failure to observe the standards of conduct expected of international civil servants. Allegations of misconduct and other wrongdoing shall be received on a confidential basis and may also be submitted anonymously⁷.

14. The Director, IOD may also decide to proactively initiate investigations into potential misconduct or other wrongdoing, based on risks identified⁸ in the course of risk assessment and other oversight activities.

15. In accordance with Staff Regulation 1.7, staff members shall report suspected wrongdoing to the Director, IOD, or a hierarchical supervisor, who shall immediately inform the Director, IOD.

16. The Director, IOD shall acknowledge receipt within seven calendar days in writing of those allegations made by identifiable complainants. Furthermore, within six months of receipt of the report of suspected wrongdoing, the Director, IOD shall notify identifiable complainants in writing of the status of the matter.

⁵ Office Instruction No. 33/2017 entitled "Policy to Protect Against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorized Audits or Investigations".

⁶ Internal Oversight Charter, paragraph 15.

⁷ Internal Oversight Charter, paragraph 15.

⁸ Internal Oversight Charter, paragraph 31.

17. Allegations concerning IOD personnel, WIPO personnel at the DDG and ADG levels or the Director General shall be handled in accordance with paragraphs 21-25 of the Internal Oversight Charter.

4. INITIATING INVESTIGATIONS

18. Upon receipt of allegations of or information concerning misconduct or other wrongdoing, IOD will conduct a preliminary evaluation of the information available, the purpose of which is to determine whether or not:

- (a) The alleged behavior, if established, would constitute misconduct or other wrongdoing;
- (b) The allegations are credible, material, and verifiable; and/or
- (c) A more appropriate or a less formal remedy is appropriate and available, or the matter falls within the purview of another body⁹.

19. IOD will endeavor to complete the preliminary evaluation within 30 calendar days from the receipt of the allegations, unless circumstances warrant a longer period. Based on the outcome of the preliminary evaluation, the Director, IOD shall decide whether to close the matter or to initiate a full investigation. The preliminary evaluation and ensuing reasoned decision of the Director, IOD shall be documented.

20. The Director, IOD enjoys functional and operational independence from Management¹⁰. Consequently, decisions and determinations made by the Director, IOD in the fulfilment of his/her mandate may not be subjected to any internal review.

5. PRINCIPLES GOVERNING THE INVESTIGATIVE PROCESS

21. IOD investigative activities include all fact-finding inquiries conducted both during the preliminary evaluation and the full investigation. They aim at gathering and reviewing the evidence available, both inculpatory and exculpatory, that is, evidence that either substantiates or disproves an allegation, and/or contributes to identifying perpetrators and/or establishing relevant surrounding circumstances. Investigative findings and conclusions are determined through an impartial, objective, and independent process of information gathering and analysis, which may include reasonable inferences, and are only based on substantiated facts and evidence.

22. The Director, IOD and the investigators he/she may designate shall have unrestricted, unlimited, direct and prompt access to all WIPO records, property, staff members, contractors and other personnel, and to all the premises of WIPO¹¹.

23. WIPO staff members, contractors and other personnel have a duty to cooperate unreservedly with investigative activities conducted by IOD and to respond promptly and fully to IOD requests for information¹².

⁹ Uniform Guidelines, paragraphs 29-31.

¹⁰ Internal Oversight Charter, paragraph 11.

¹¹ Internal Oversight Charter, paragraph 13.

¹² Internal Oversight Charter, paragraph 13.

24. No one shall interfere with an ongoing investigation or otherwise attempt to influence or stop such investigation.
25. The right of WIPO staff members, contractors and other personnel to communicate confidentially with, and provide information to IOD without fear of reprisal, is guaranteed by the Director General¹³.
26. Notwithstanding the foregoing, intentionally and knowingly making allegations or providing information that is false or misleading or that recklessly disregard the accuracy of the information constitutes serious misconduct and may result in disciplinary or other appropriate action.
27. Investigative activities must preserve confidentiality, respect the individual rights and obligations of WIPO staff members and others concerned and must be conducted with strict regard for fairness, impartiality and the presumption of innocence.
28. Confidentiality shall be maintained with respect to all investigative matters by the Director, IOD, designated investigators, and all others involved¹⁴. IOD shall keep confidential the identity of the source of the initial allegations of misconduct or other wrongdoing and disclose it on a need to know basis only where required by the legitimate needs of the investigation and/or any subsequent proceedings. In addition, investigation plans and schedules, strategies or terms of reference relating to an investigation shall not be shared or distributed outside of IOD. Breach of confidentiality in relation to IOD investigative activities may amount to misconduct.
29. In the performance of their investigative functions, the Director, IOD and designated investigators will consider the impact on staff members and others concerned who might be negatively affected by the appearance of being investigated, and take reasonable steps to protect their reputation.
30. Once the preliminary evaluation has been completed and if the Director, IOD determines that a full investigation is warranted, the Director, IOD shall notify the individual whose conduct is under examination for alleged misconduct (hereinafter the subject) that he/she is under investigation. The notification will take place in writing, as soon as this is feasible without jeopardizing the effectiveness or integrity of the investigative process, and in any event before the subject is interviewed. It will provide information on the general nature of the allegations under investigation and on the subject's rights and obligations.
31. The subject of an investigation shall be given a fair and reasonable opportunity to explain or justify the conduct being examined and present evidence on his/her behalf prior to the issuance of an adverse finding against him/her. Specifically, and unless exceptional circumstances would cause this to jeopardize the effectiveness or integrity of the investigative process:
- (a) The subject will be given an opportunity to attend an interview with IOD where he/she will be provided details of the allegations and shown the evidence in support thereof, in anonymized form where warranted; he/she will be offered the opportunity to respond and to provide countervailing evidence during the interview and at any time thereafter; and
 - (b) Subsequently, the subject will be given an opportunity to review and comment on relevant excerpts of the draft investigation report.

¹³ Internal Oversight Charter, paragraph 17, and Staff Regulation 1.7.

¹⁴ Internal Oversight Charter, paragraphs 18 and 43.

32. During the investigative process, the subject of an investigation is not entitled to a legal representative to act on his/her behalf. However, he/she may be accompanied to his/her interview by a suitable third party, who will act as an observer, provided the third party undertakes to respect the confidentiality of the investigation, is reasonably available, and is not connected to the matter under investigation. The presence of such observer shall not relieve the subject of the obligation to respond personally in the matter under investigation.

6. REPORTS

33. Upon completion of the investigation, the Director, IOD shall issue a final investigation report to the relevant competent authority detailing the findings made and evidence collected during the investigation as to whether misconduct or other wrongdoing occurred or not, and providing recommendations as deemed appropriate. The Director, IOD will endeavor to submit such report within six months of the date of initiating the full investigation, unless circumstances warrant a longer period.

34. Unless otherwise stipulated in this Policy, the Director, IOD shall submit final investigation reports to the Director General with a copy to the Director, HRMD; the External Auditor and the IAOC shall have access to investigation reports upon request¹⁵.

35. Where the case involves wrongdoing by a vendor or bidder, excerpts of the final investigation report relating to such vendor or bidder shall be provided to the Director, Procurement and Travel Division.

36. Final investigation reports concerning the Director of IOD, WIPO personnel at the DDG and ADG levels or the Director General shall be handled in accordance with paragraphs 38-42 of the Internal Oversight Charter.

37. Final investigation reports, drafts, materials, findings, conclusions and recommendations are fully confidential, unless disclosure is authorized by the Director, IOD or the Director General¹⁶.

38. Subsequent to the issuance of a final investigation report to the relevant competent authority, such authority may, if and as deemed necessary, submit comments or request clarifications regarding the investigative findings and/or conclusions, for consideration by the Director, IOD.

39. In response, the Director, IOD may, at his/her discretion, provide additional information and/or decide to conduct additional investigative activity, in which case an *addendum* to the final investigation report may be issued to the relevant competent authority. Should the additional investigative activity result in any new adverse findings, relevant excerpts of the *addendum* containing these findings will be shared with the subject for review and comments as per paragraph 31(b) of this Policy.

40. The Director, IOD may, at any time, issue Management Implication Reports providing systemic recommendations derived from investigative findings.

¹⁵ Internal Oversight Charter, paragraph 37.

¹⁶ Internal Oversight Charter, paragraph 43.

7. EFFECTIVE DATE AND REVIEW

41. This Policy will come into effect on September 23, 2019, superseding any previous version. It shall be reviewed at least every three years and revised as necessary.

[Annex I follows]

REFERENCE DOCUMENTS

(as may be amended from time to time)

1. WIPO Internal Oversight Charter (Annex I to the Financial Regulations and Rules)
2. Uniform Principles and Guidelines for Investigations (2009)
3. Chapter X, “Disciplinary Measures”, of the Staff Regulations and Rules
4. Chapter XI, “Conflict Resolution”, of the Staff Regulations and Rules
5. Office Instruction No. 50/2016 on the “Procedure governing the application of disciplinary measures”
6. Office Instruction No. 33/2017 on the “Policy to Protect Against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorized Audits or Investigations”
7. Office Instruction No. 37/2014 on “The Office of the Ombudsperson

[End of Annex I and of document]