

Whistleblower and Anti-Retaliation Policy

The International Development Law Organization (“IDLO”) is committed to detecting, investigating and taking action against misconduct that occurs in the course of its operations. This document outlines the policy and procedures for reporting suspected misconduct, and the protections IDLO affords to its staff members and to individuals in a direct contractual relationship with IDLO who, in good faith, report suspected misconduct.

1. Scope and Application

The terms of this policy apply globally to all IDLO staff members and individuals in a direct contractual relationship with IDLO as consultants, contractors, persons seconded to IDLO, interns and volunteers.

2. Definitions

- **Misconduct:** means any illegality, breach of IDLO's internal rules, gross waste, mismanagement, abuse of authority, substantial and specific danger to public health or safety, and any other activity that undermines the institutional mission to its stakeholders. Examples include, but are not limited to, corruption, fraud, theft, misrepresentation, misuse of IDLO property, retaliation against whistleblowers, and abuse of privileges and immunities.
- **Retaliation:** means adverse action taken against an individual because he or she made a good faith report of suspected misconduct.
- **Whistleblower:** is a person who, in good faith and on the basis of a reasonable belief that misconduct has occurred, reports suspected misconduct.

3. Duty to Report and Cooperate

IDLO staff members and other individuals with a direct contractual relationship with IDLO have a duty to promptly report suspected misconduct associated with any activity of IDLO and to cooperate fully and truthfully in any internal or external review, audit, or investigation conducted by or on behalf of IDLO. Failure to report and/or cooperate, including by withholding material information, may result in disciplinary action, including termination of employment or contractual relationship.

4. Confidentiality

It is the duty of the individual or body that receives a report of suspected misconduct to protect the confidentiality of the person making the report and all communications in relation to the report to the maximum extent possible. Absent the individual's consent, his or her identity should be exceptionally disclosed only if it is necessary for administrative, disciplinary or judicial action or in order to ensure due process in the investigation of the allegations made.

5. Procedure for Reporting Suspected Misconduct

IDLO staff members and other individuals with a direct contractual relationship with IDLO should report suspected misconduct in the first instance to their direct supervisor. If the suspected misconduct involves the direct supervisor, the reporting individual has reason to believe that he or she may be subject to retaliation, or the reporting individual has reason to believe that evidence of suspected conduct will be concealed, destroyed, or not acted upon, the individual should report

the suspected misconduct to any other senior IDLO manager (such as the Country Director, Department Director, General Counsel, or the Director-General). Supervisors and senior managers, in turn, shall promptly elevate all reports of suspected misconduct directly to the Director-General.

6. External Reporting

If the suspected misconduct involves the Director-General, the reporting individual has reason to believe that the Director-General may subject the individual to retaliation, or the reporting individual has reason to believe that evidence of suspected conduct will be concealed or destroyed, or the individual has previously reported the same information through the procedure set forth in paragraph 5 and IDLO has failed to inform the individual in writing of the status of the matter within 60 days of such a report, the individual should report the suspected misconduct to the President of the IDLO Assembly of Parties whose contact information will be made available to all employees.

The President of the IDLO Assembly of Parties (the "President") will determine, as provided in paragraph 9(b), what action to take in response to the report such as sharing it with IDLO governing bodies, select IDLO personnel, and/or external reviewers, auditors, or investigators. Anyone receiving such information is subject to the confidentiality requirements in Section 4 of this policy.

7. Anonymous Reporting

Individuals are encouraged to include their names or other contact information in their reports of suspected misconduct to facilitate any follow-up. The names of individuals making reports will be kept confidential to the maximum extent possible. Individuals may, however, submit their reports completely anonymously by non-IDLO email, fax, letter, or other means without personally identifiable information.

8. Information to be Included in a Report of Suspected Misconduct

Individuals submitting reports of suspected misconduct should submit all pertinent information with regard to the suspected misconduct including any documentary or other evidence. While reports of suspected misconduct may be submitted anonymously, including the name of the individual making the allegation may add to the credibility of the allegation and may facilitate a more effective investigation.

9. Investigation of Suspected Misconduct

- (a) Except as provided in subparagraph (b), the decision whether a review, audit, or other investigation is warranted under the circumstances will be determined on a case-by-case basis by the Director-General. Such a decision should be made within 30 days of the receipt of the report of suspected misconduct. The reporting individual will likewise be informed of whether follow-up action is being taken with respect to his or her report. If a review, audit, or other investigation is determined to be warranted, it will be referred to IDLO's Compliance and Internal Audit Officer for such action. The Compliance and Internal Audit Officer, in consultation with the General Counsel, may also decide to refer the matter to an external entity to conduct the review, audit, or other investigation.

- (b) For reports submitted externally in accordance with paragraph 6 of this Policy, the decision whether a review, audit, or other investigation is warranted under the circumstances will be determined on a case-by-case basis by the President in consultation with the Vice-Presidents of the Assembly of Parties and, when deemed appropriate by the President, the Chair of the Board of Advisers, the Chair of the Audit and Finance Committee, and/or other Members of the Standing Committee. Such a decision should be made within 30 days of the receipt of the report of suspected misconduct. The reporting individual will likewise be informed of whether follow-up action is being taken with respect to his or her report. If a review, audit, or other investigation is determined to be warranted, the Standing Committee will be informed in writing and will promptly determine how it should be conducted, including by referring the matter to an external entity to conduct the review, audit or other investigation.

10. Action Based Reviews, Audits, or other Investigations

Any disciplinary or remedial actions required to address instances of confirmed misconduct will be taken consistent with the applicable IDLO rules and regulations. The reporting individual should be informed, as appropriate, of the action taken with respect to his or her report.

11. Bad Faith Conduct

In order to receive protection under this Policy, individuals must make a report in good faith and have a reasonable belief that misconduct has occurred. The transmission or dissemination of unsubstantiated rumors is not considered a protected activity under this Policy. A whistleblower who intentionally makes a false, fraudulent, malicious, or frivolous report which is subsequently found to be false is subject to disciplinary or other appropriate action.

12. No Retaliation

Retaliation against whistleblowers is strictly prohibited and is misconduct. IDLO staff members or other individuals with a direct contractual relationship with IDLO who retaliate against any person making a report shall be subject to disciplinary measures, up to and including termination of employment or contractual relationship. Examples of retaliation include, but are not limited to:

- Employment actions such as termination, and denial of renewal of contract or promotion unless otherwise justified;
- Other unjustified actions affecting employment such as negative evaluations, negative references, placement on administrative leave, increased oversight, changes in duties, reduction of responsibilities, denial of leave or creation of an uncomfortable physical environment; and
- Other actions including, but not limited to, harassment, intimidation, or assault that are intended to punish an individual for reporting alleged illegal activities or misconduct or to deter such individual from continuing to cooperate in an ongoing review, audit, or other investigation.

13. Reports of Suspected Retaliation

- (a) Reports of suspected retaliation will be treated as reports of suspected misconduct under this policy. Reports of suspected retaliation must be made as soon as

possible either in accordance with paragraphs 5 or 6 of this Policy or directly to the Chair of the Joint Appeals Board (the Chair) and not later than six months after the alleged acts of retaliation have taken place.

- (b) For reports made to the Chair of the Joint Appeals Board, the Chair will determine if (i) the complainant engaged in protected activity and (ii) there is a prima facie case that the protected activity was a contributing factor in causing the alleged retaliation.
- (c) The Chair will seek to make this determination within 45 days of receiving the complaint of retaliation.
- (d) All employees of IDLO shall cooperate with the Chair and provide access to all records and documents requested by the Chair, except for medical records that are not available without the express consent of the employee alleging retaliation.
- (e) If the Chair finds that there is a credible case of retaliation, the Chair will refer the matter in writing to (i) the Director-General and the Compliance and Internal Audit Officer for investigation in accordance with paragraph 9(a) of this Policy or (ii) in cases where the Director-General may have a conflict of interest, to the President for investigation in accordance with paragraph 9(b) of this Policy. Investigations will be completed within 120 days and the resulting investigation report will be submitted promptly to the Chair.
- (f) Pending the completion of the investigation, the Chair may recommend that the Director-General take appropriate measures to safeguard the interests of the complainant, including but not limited to temporary suspension of the implementation of the action reported as retaliatory and, with the consent of the complainant, temporary reassignment of the complainant within or outside the complainant's office or placement of the complainant on special leave with full pay.
- (g) Once the Chair has received the investigation report, the Chair will inform the complainant in writing of the outcome of the investigation and make its recommendations on the case to the Director-General. In the case of an investigation made pursuant to the provisions of paragraph 9(b), those recommendations will also be shared with the President and Vice Presidents of the Assembly of Parties. The recommendations may include disciplinary actions to be taken against the retaliator.
- (h) The Director-General will promptly implement the recommended remedial measures or provide a written justification to the Chair and the complainant within two weeks of receiving the recommendations explaining why recommended measures were not implemented. In the case of recommendations following an investigation pursuant to the provisions of paragraph 9(b), the Director-General will also provide a copy of that written justification to the President and Vice-Presidents of the Assembly of Parties.

14. Application of Normal Standards of Performance or Conduct

Whistleblowers and those participating in a review, audit or other investigation are not exempt from the application of normal standards of performance and conduct or other IDLO policies affecting continued employment. For example, IDLO is not required to maintain the employment of a whistleblower or of an investigation witness when the Organization has an independent basis to terminate the employment or abolish a position in accordance with IDLO's policies and procedures for the disestablishment of positions. In a case where a whistleblower has alleged retaliation, the burden of proof shall rest with IDLO to prove by clear and convincing evidence that it would have taken the same action absent the good faith report of misconduct protected by this Policy.

15. Protection of the Person Who Suffered Retaliation

If retaliation against an individual is established, the Director-General shall promptly take appropriate measures aimed at correcting negative consequences suffered as a result of the retaliatory actions.

The procedures set forth in this Policy are without prejudice to the rights of an individual who has suffered retaliation to seek redress through the internal recourse mechanisms described in the Staff Rules and Regulations. Moreover, an individual may use such internal recourse mechanisms to raise a violation of the Policy or to appeal a decision taken pursuant to this Policy.

16. Review

The Director-General shall take reasonable steps to ensure that this Policy is followed and to evaluate annually the effectiveness of this Policy in coordination with the General Counsel. The Office of the General Counsel will maintain a confidential record of all cases reported to the Director-General and their disposition and provide a summary report annually to the Standing Committee. The Policy may be revised as necessary and as required by any changes to any internal rules, regulations, and standards.

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