



Policy Title ICMC Disciplinary Policy and Procedure
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International Catholic Migration Commission Disciplinary Policy and Procedure

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INTRODUCTION

As a Catholic-inspired organization working with and on behalf of uprooted and migrant populations, including refugees, asylum seekers, internally displaced people, victims of human trafficking, and migrants, the International Catholic Migration Commission (ICMC) is committed to hold itself accountable to people and families it assists and specifically aims to prevent misconduct and to safeguard vulnerable populations. ICMC is also committed to uphold a safe and ethical work environment for all.

All staff are therefore required to abide by all the rules, procedures and policies governing ICMC and its overall work environment practices. Any confirmed breach of the above may result in actions taken under this Disciplinary Policy, including dismissal.

For purposes of this policy, ICMC staff is defined as, but not limited to, all persons permanently and temporary employed by ICMC, consultants, persons related to ICMC affiliated offices, subsidiaries and branches, interns, volunteers, and all individuals working for or representing ICMC.

Performance issues will usually be addressed through ICMC's appraisal system, unless the underperformance or inappropriate performance is substantiated to be deliberately contravening the Code of Conduct or other related policies.

DEFINITIONS

Misconduct: Any breach by staff of applicable national or international law as well as contraventions of the ICMC's internal rules or policies, regulations or other instructions issued by the relevant manager or authority including contextualized security provision and sexual harassment policies.

The following are examples of matters that will normally be viewed as misconduct under this Disciplinary Policy. The list is non-exhaustive. This includes off-duty instances where this affects or could affect other staff, beneficiaries or the reputation of ICMC.

- Failing to follow ICMC policies / procedures / HR rules and regulations
- Intoxication on the job by alcohol or drugs
- Habitual late attendance, absence without leave
- Use of inappropriate language
- Internet misuse, spending time on personal errands while at work (e.g recreational games, work for third parties, etc).

Gross Misconduct: Any incident of sexual exploitation and abuse, harassment, abuse of power, fraud and corruption

The following are examples of matters that will normally be viewed as gross misconduct under this Disciplinary Policy. The list is non-exhaustive. This includes off-duty instances where this affects or could affect other staff, beneficiaries or the reputation of ICMC.

- Any violation of ICMC's PSEAH Policy

Conduct that violates the ICMC Code of Conduct (e.g. breach of confidentiality, workplace violence harassment, etc.)

- Disorderly or indecent conduct including fighting, physical assault or threatening behaviour on ICMC's premises
- Use or misrepresentation of a staff's position with ICMC for personal gain or for any other purposes not related to ICMC,
- Bringing ICMC into disrepute
- Deliberate damage to ICMC's property, including computer systems,
- Dishonesty, such as theft, fraud or deliberate falsification of records, salary or expense claims
- Falsifying any information given in applying for a post and/or failure to disclose criminal convictions
- Giving and receiving bribes and other corrupt activity

Suspension and/or immediate dismissal: In case of an allegation of gross misconduct and unless specified differently in national or regional applicable legislation, the staff member may be either suspended with immediate effect, pending results of a preliminary investigation or immediately dismissed. When a staff person is immediately dismissed, s/he is dismissed without notice.

Any such sanction needs to be taken in conformity with national and local labour law and according to employment contracts

Management: Direct Manager, Other Management, Supervisor and Team Lead, Field and/or Departmental Manager, Secretary General

PURPOSE AND SCOPE

The Disciplinary Policy and Procedure is used to deal with misconduct, behavioral concerns or any other identified misconduct or gross misconduct. **Local laws and regulations should be taken into consideration when implementing the policy.**

Any processes and decisions taken under this policy are subject to strict data protection, in line with ICMC's HR processes and applicable data protection rules.

RESPONSIBILITIES FOR DISCIPLINARY ACTION

Any substantiated breach of ICMC's policies, on or off duty, will lead to disciplinary measures including termination of employment and/or legal action, if required and appropriate. Appropriate disciplinary action will be taken at the highest applicable level, i. e.

- Incidences of substantiated misconduct will be dealt with by the responsible line manager in consultation with the respective Department Heads who have managerial responsibility
- Incidences of substantiated gross misconduct will be dealt with by the Secretary General as the legal Representative with statutory responsibility over management of all ICMC personnel and **in consultation with** the respective Department Heads, supervisors, line managers who have managerial responsibility over the concerned staff person.

DISCIPLINARY PROCEDURE

The following rules will prevail unless national/local legislation and practice requires alternative measures. Country offices might need to abide by more strict rules according to national labor law or obliged to follow more stringent steps to be compliant with the law. Immediate dismissal rules differ from one country to another.

Disciplinary actions include verbal warning, written warning, suspension and dismissal. Concerned staff will be given the opportunity to respond to potential allegations, and disciplinary action will be taken only following an inquiry into the facts (except immediate suspension which may be taken in cases of alleged gross misconduct pending results of a preliminary investigation). During an investigation, ICMC will follow the key steps and processes as outlined in the *CHS Investigation Guidelines*. ICMC is committed to keeping any investigation as victim-centered as possible.

Disciplinary measures will be applied in accord with the principle of proportionality, taking into account the seriousness of the offense, the exact circumstances of the event, as well as applicable national and local employment laws. Alleged gross misconduct may lead to suspension, pending results of a preliminary investigation, and immediate dismissal in case of substantiation. The Secretary

General must be consulted when imposition of such sanctions is being considered. In cases involving report or suspicion of criminal activities on the part of a staff person, ICMC may consider seeking legal advice with regard to informing the relevant and competent authorities and cooperating in investigations, when applicable and as necessary.

PROCESSES AND SANCTIONS

The processes and sanctions mentioned below can be applied as follow-up action on substantiated misconduct or substantiated gross misconduct. Such decision will be taken as outlined above by the appropriate management level **and in conformity with national and local labour law as well as employment contracts**:

Informal process

Line managers are responsible for **discussing minor behavioral issues** such as arriving late for work, not following the respective work plan as agreed, small disputes amongst staff, etc. **directly** with the staff in the normal course of the working relation and/or in conjunction with any performance review process. If, during an informal process, there is a need for disciplinary action the manager will decide with the guidance of the HR officer the appropriate action. Managers should keep a written record of any such discussion and provide a copy to Human Resources and the staff concerned.

Verbal Warning

In case of **minor behavioral issues**, a verbal warning will normally be given by the respective line manager, indicating:

- 1) The nature of the minor behavioral issue
- 2) The expected improvement plan including time period and necessary management support
- 3) The consequences of failing to respond to the defined improvements or for committing further misconduct
- 4) The fact that the warning will be kept in the staff's HR file. Compliance with expected improvements should be reflected in the appraisal and performance process and captured in the file for further reference.

A summary of discussion points will be kept in the staff's HR file. A staff person subject to a verbal warning will be regularly monitored and progress noted based on the appraisal and performance process, under the responsibility of the line manager. A verbal warning is usually appropriate for a first act of minor misconduct where there are no other active warnings.

Written Warning

In case of **misconduct**, a staff person will be issued a written warning by the HR department, or, in case no formal HR department is functioning in the respective office, by the relevant authority after consultation with the concerned line manager and with the approval of the respective office director. The warning letter should indicate:

- 1) The nature of the misconduct
- 2) The expected improvement plan, including time period and necessary management support
- 3) The consequences of failing to respond to the defined improvements or for committing further misconduct or gross misconduct

- 4) The fact that the written warning will be kept in the staff person's HR file. Compliance with expected improvements should be reflected in the appraisal and performance process and captured in the file for further reference.

A written warning will be given to the staff person after a disciplinary hearing in presence of an HR officer, the responsible line manager and/or the departmental field officer and the concerned staff person. A copy of the written warning signed by the HR officer and the line manager will be kept on the staff person's HR file. A copy will also be given to the staff person. Compliance with expected improvements will be regularly monitored and progress noted based on the appraisal and performance process, under the responsibility of the line manager. The line manager, in consultation with respective management, will be responsible to establish if the staff person has sufficiently improved the behaviour that necessitated the warning, or whether a further period of assessment is required.

Final Written warning

Following verbal and/or written warning, if insufficient improvement has been noted, then the staff person will be issued a **final written warning** by the concerned line manager, in cooperation with the respective Department Head. **In the case of substantiated gross misconduct, a final written warning may be issued with no prior verbal or written warnings.** The final written warning indicates:

- 1) The nature of the misconduct / gross misconduct
- 2) The expected improvement plan including time period and necessary management support or conditions for immediate suspension
- 3) The consequences of failing to respond to the defined improvements or for committing further misconduct / gross misconduct
- 4) The fact that the final written warning will be kept in the staff's HR file. Compliance with expected improvements should be reflected in the appraisal and performance process and captures in the file for further reference (even in the case of subsequent dismissal).

A final written warning will be given to a staff after a disciplinary hearing, in presence of an HR officer (where available), the responsible line manager and/or the departmental field officer and the concerned staff. A copy of the final written warning signed by the HR officer and the line manager and/or the departmental field officer will be kept on the staff's HR file. A copy will also be given to the staff person who will be also informed about her/his right to appeal. Compliance with expected improvements will be regularly monitored and progress noted based on the appraisal and performance process, under the responsibility of the line manager.

Department Heads and the Secretary General will be informed about final written warnings in case of gross misconduct.

Suspension

In case(s) of documented instance of gross misconduct and/or, after preliminary investigation, the finding of risk to the potential survivors, complainants, witnesses or the staff her/himself, suspension may be imposed, pending completion of further investigation and determination of final action to be taken. Respective Department Heads as well as the Secretary General must be informed of such a suspension. The suspension must be limited in time and the concerned staff needs to be informed about the expected timeframe of the suspension. The suspension can be with or without pay, in conformity with any applicable national and local labor laws.

Dismissal

If a staff person fails to adhere to improvement plans, subsequent to previous warnings, ICMC will consider dismissal or another appropriate sanction.

If dismissal is identified as the only appropriate disciplinary action, this decision will be confirmed by letter detailing the reasons for dismissal, and the date on which the contract between the staff and ICMC will be terminated, and will inform the staff about her/his right to appeal. Any sanction short of dismissal will be issued with a further written warning stating that failure to meet the required improvements will result in dismissal.

The staff person who is dismissed from ICMC for disciplinary reasons will be excluded from any further employment and contractual opportunities with the organization.

Immediate Dismissal

If an investigation substantiates a case of gross misconduct, specifically with regard to instances of sexual exploitation, sexual abuse, child abuse, corruption and fraud, this will result in immediate dismissal (regardless of whether there are any former warnings on the staff's record) **without notice or payment in lieu of notice, and without obligation of conformity to previously-agreed contractual obligations.** This decision will be confirmed by letter after the formal hearing in presence of an HR officer (where available), the responsible line manager and/or the departmental field officer and the concerned staff. The letter will detail the reasons for dismissal, the date on which the contract between the staff and ICMC will be terminated (immediate and without notice) and will inform the staff about her/his right to appeal. Respective Department Heads as well as the Secretary General, must be informed of such cases of immediate dismissal.

APPEALS PROCESS

In conformity with national legislation and if a staff member believes that a decision made within the framework of this disciplinary procedure is not justified or excessive, s/he is entitled to appeal the decision to the Secretary General. If the appeal concerns the Secretary General, the appeal should be addressed to the President and Vice-President or the ICMC Governing Committee¹.

The appeal to the Secretary General must be submitted in writing, signed by the staff and state the basis for the appeal. The statement must be submitted within 10 working days after the disciplinary action was communicated to the staff. The statement must clearly specify the reasons for the appeal, based on evidence to explain why the final decision did not fairly address the issue. The Secretary General will notify the respective Line Manager and Department Heads about the appeal and ask for all relevant information and reports of the initial concern. S/he will conduct necessary consultations with Senior Management and other individuals involved in the case including the concerned staff, as s/he deems necessary to reach a final decision.

Appeals will be acknowledged within 10 (ten) working days. The concerned staff person will be notified of appeal decision in writing within 1 (one) month. If there is a necessary delay in the above-outlined process, the staff will be notified in writing.

If the appeal regards a decision of dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if a staff member's appeal reverses the decision to dismiss, s/he will be reinstated with no loss of continuity or pay.

¹Depending on which instance dealt with the grievance in the first place

Any decision made by the Secretary General is final. Outside mediation may be considered, at the discretion of the Secretary General.

Notwithstanding the above procedures, in grave situations, the Secretary General reserves the right and responsibility to intervene in the disciplinary process as necessary and appropriate.

In cases involving the Secretary General, the decisions of the responsible authorities (mentioned above) will exercise discretion with regard to consideration of outside mediation.