



## SECRETARIAT

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Distribution: All staff members and other personnel at Headquarters,  
established offices and Permanent Missions

### ADMINISTRATIVE INSTRUCTION

#### Investigation Guidelines

1. The present administrative instruction contains the Investigation Guidelines of the Office of Evaluation and Internal Oversight. The Guidelines shall govern the conduct of investigations in UNIDO in accordance with the Charter of the Office of Evaluation and Internal Oversight (DGB/2020/11) and the Investigation Policy (DGB/2021/13).
2. This administrative instruction shall enter into force with immediate effect and supersede UNIDO/DGAI.19, dated 16 January 2012.

# INVESTIGATION GUIDELINES

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## INTRODUCTION

1. These Guidelines complement the policy framework provided by the Charter of the Office of Evaluation and Internal Oversight (DGB/2020/11) and the Investigation Policy promulgated in DGB/2021/13. They describe the procedures for conducting investigative activities into alleged misconduct of UNIDO personnel.<sup>1</sup>
2. The term “misconduct” refers to any action taken in violation of a standard of conduct, a binding legal, moral or ethical norm or duty, or a regulation, rule or policy, which is applicable in the Organization.<sup>2</sup> Such misconduct may constitute a breach of conduct on the part of staff members, as defined in Staff Regulation 11.2 and the corresponding Staff Rules, or a breach of contractual duties on the part of other personnel.
3. These Guidelines reflect generally accepted investigation standards for international organizations as laid down in the "*Uniform Principles and Guidelines for Investigations*" (UGI), 2<sup>nd</sup> edition, which were endorsed by the 10<sup>th</sup> Conference of International Investigators, held in June 2009.
4. Investigations shall be conducted, to the extent possible, in line with these Guidelines and the UGI. However, strict non-adherence to these Guidelines may not constitute grounds for claiming a violation of due process, particularly where such failure is not prejudicial to the case or does not constitute a fatal procedural flaw.

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<sup>1</sup> These Guidelines do not apply to investigations of external parties, such as contractors, vendors, grant beneficiaries and project executing entities.

<sup>2</sup> Investigation Policy (DGB/2021/13) dated 21 September 2021, paragraph 9.

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## A. MANDATE

5. The Office of Evaluation and Internal Oversight (EIO) is responsible for investigating alleged misconduct pursuant to Financial Rule 109.1.15 (b),<sup>3</sup> the EIO Charter,<sup>4</sup> the Investigation Policy<sup>5</sup> and the Terms of Reference of EIO set out in the UNIDO Secretariat Structure.<sup>6</sup>

6. Investigation in UNIDO is administrative and non-adversarial in nature. It is a fact-finding exercise, not a punitive undertaking. The investigation is part of UNIDO's internal justice system and internal control framework, which are based on the Organization's internal regulations and rules, not on national laws.

7. EIO plays no role in the decision-making processes that follow the investigation, which may result in disciplinary, administrative actions or other consequences for the concerned subject. The separation of functions between investigation, on the one hand, and disciplinary or administrative action, on the other hand, provides the necessary checks and balances for the proper administration of justice.

8. EIO investigates only allegations that could constitute misconduct. Misconduct encompasses all breaches of conduct and all forms of wrongdoing which include, but are not limited to:

- fraud, misrepresentation, and all forms of deceitful or dishonest practices;
- all forms of financial irregularities;
- abuse of position, including for personal gain or gain by another;
- misuse of UNIDO-entrusted funds, including for personal gain or gain by another;
- conflicts of interest where, for example, a duty to disclose the conflict is knowingly or recklessly violated or circumvented;
- corrupt, coercive, collusive, and obstructive practices;
- harassment, including sexual harassment, abuse of authority, and discrimination;
- sexual exploitation and abuse;
- retaliation;<sup>7</sup>
- abuse or misuse of UNIDO property or funds, including those related to travel, benefits, allowances, or petty cash; and
- mismanagement and waste of resources.

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<sup>3</sup> Financial Rule 109.1.15 (b) “[t]he office will also be responsible for conducting fact-finding in case of alleged fraud, misconduct and mismanagement with a view to safeguarding the Organization’s interests and ensuring accountability”, as amended.

<sup>4</sup> Charter of the Office of Evaluation and Internal Oversight (DGB/2020/11), dated 11 December 2020, as amended.

<sup>5</sup> Investigation Policy (DGB/2021/13), dated 21 September 2021.

<sup>6</sup> UNIDO Secretariat Structure 2020 (DGB/2020/04), dated 26 May 2020, as amended.

<sup>7</sup> “Protection against retaliation for reporting misconduct or cooperating with audits or investigations” (UNIDO/DGB/(M).116), dated 1 March 2010, as amended.

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## B. DEFINITIONS

9. For the purpose of these Guidelines,
- (a) An “investigation” is the administrative process of fact-finding, examination, and verification of one or more allegations of misconduct, in order to determine whether misconduct has occurred and, if so, to identify the person or persons, or the entity or entities, responsible.
  - (b) A “staff member” is a person hired by UNIDO under the 100, 200, or 300 series of the staff rules.<sup>8</sup>
  - (c) “Personnel” refers, unless the context otherwise provides, to staff members; holders of any form of contract of service with UNIDO, such as an individual service agreement, individuals on reimbursable and non-reimbursable loan; Goodwill Ambassadors; interns; and other individuals associated with UNIDO.<sup>9</sup>
  - (d) A “complainant” is an individual who reports, in good faith, information that misconduct may have occurred. Such a report is called a “complaint”. A complainant may or may not be the victim of the alleged misconduct.
  - (e) A “witness” is a person who may be in a position to provide information relevant to the matter under investigation. The information may come from his or her knowledge of a factual situation, or from his or her expert knowledge of a business process or typical situation. The category “witness” does not include subjects and complainants.
  - (f) A “subject” is a person who is the focus of an investigation either by virtue of an allegation received or evidence discovered during the investigative process.
  - (g) An “allegation” is a statement or claim of fact that has not yet been proven to be true. Allegations express a belief that is purportedly based on factual information.
  - (h) “Evidence” is anything that may incline the mind of a reasonable person to accept or reject the existence of a fact material to the case. It includes, but is not limited to, documents; electronic, audio, and video records; testimony of witnesses, including experts on technical matters; and photographs.
  - (i) “Investigation personnel” means staff members and/or other personnel in EIO/IOD assigned by the Director, EIO to carry out investigative activities.
  - (j) “Investigator” means the Chief, EIO/IOD or the Investigator, EIO/IOD and/or other person so designated by the Director, EIO to conduct an investigation into allegations of misconduct. Exceptionally, an investigator may also be a person designated directly by the Director General to conduct an investigation into allegations involving the Director, EIO and/or EIO/IOD staff members.

## C. PRINCIPLES AND STANDARDS

10. Investigations shall rely on the preponderance of the evidence standard – i.e., whether something is more probable than not – as the minimum standard of proof to determine whether misconduct has occurred.

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<sup>8</sup> In these Guidelines, the terms “staff” and “personnel” shall have the same meaning as in the EIO Charter.

<sup>9</sup> Ibid.

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11. The general principles that should guide the work of the investigation function are as follows:

- (a) Objectivity, impartiality, and fairness should be maintained throughout the investigative process;
- (b) All investigations should be conducted competently and with the highest levels of integrity;
- (c) Any actual or potential conflicts of interest by investigation personnel should be disclosed to the Director, EIO and appropriate action should be taken to mitigate the conflict;
- (d) Allegations of misconduct on the part of EIO/IOD staff members and the Director, EIO should normally be investigated by a separate entity competent to carry out an independent investigation, such as the investigation office of another United Nations agency or the Joint Inspection Unit;
- (e) Investigative duties should be performed independently and free from improper influence or fear of retaliation;
- (f) Reasonable measures should be taken to protect confidentiality; and
- (g) Investigative findings should be based on facts and related analysis, which may include reasonable inferences.

#### **D. CONFIDENTIALITY**

12. Confidentiality is required for the investigative process to be effective. Confidentiality is in the interest of the Organization and essential to protect the reputation and rights of the subject and other participants in an investigation.

13. The duty to preserve the confidentiality of information relating to an investigation exists equally for personnel and for investigation personnel. Furthermore, this duty remains upon separation from UNIDO.

14. EIO will ensure the confidentiality of the information it holds with appropriate physical, electronic, and procedural controls.

15. In principle, all non-public information received or gathered by EIO as part of the investigation function shall be treated as confidential. However, during the course of an investigation, it may be necessary to provide details of the investigation to persons with a legitimate 'need to know'. This may include information provided to subjects to allow them to fully respond to allegations and to provide countervailing evidence, and to witnesses or other people with whom investigators speak or communicate in order to verify facts. Where appropriate (for example, to mitigate risk to the Organization), information may also be shared with senior management, the Office of Ethics and Accountability (EAO), and the Office of Legal Affairs (LEG) during the course of an investigation, to allow necessary action to be taken prior to the conclusion of an investigation, with appropriate restrictions on dissemination as required.

16. Information will only be disclosed as required by the legitimate needs of the investigation. In determining the level of information that is provided to subjects, witnesses, and others in the course of an investigation, the investigator will seek to strike a balance between the legitimate need for information and the risk that the investigation (or any later

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investigation, for example by national authorities) may be compromised and/or that complainants, witnesses, and others concerned may be subject to retaliation.

17. Requests for confidentiality by investigation participants will be honoured to the extent possible and always taking into account the legitimate needs of the investigation. However, the identity of investigation participants or subjects and the details of the investigation may become known for reasons outside the control of the Investigator.

## **E. RECEIPT OF COMPLAINTS**

18. EIO receives complaints and reports of alleged misconduct from sources inside and outside UNIDO, including anonymous sources. Reports from anonymous sources are assessed according to the same standard as any other allegation received. EIO may also discover alleged misconduct in the course of its investigative or other oversight activities.

19. Anyone with information regarding allegations of misconduct can report it to EIO in person, by regular mail, e-mail ([oversight-hotline@unido.org](mailto:oversight-hotline@unido.org)), 24-hour voicemail system (+43 1 26026 3666), confidential fax (+43 1 26026 6831), and through a dedicated, web-based reporting tool.

20. All personnel have an obligation to report misconduct in accordance with the established procedures and respective policy frameworks.

21. It is an act of misconduct to provide false or misleading information to EIO with the intent to deceive EIO.

22. Personnel may also report misconduct to their supervisor or other appropriate supervisor within their operating unit. Supervisors who receive such reports must immediately inform EIO.

23. EIO shall establish a central intake mechanism to receive, record and track the status of all allegations of misconduct from sources inside and outside UNIDO, including anonymous sources. This task shall be conducted by EIO in coordination with other relevant offices within the Organization, in particular the HRM and the EAO, as appropriate. The details of the mechanism will be outlined in an internal standard operating procedure.

## **F. INVESTIGATIVE PROCESS**

24. The investigative process is divided into three major phases: preliminary evaluation, full investigation, and reporting. EIO 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.

25. Within EIO resources, the Director, EIO will ensure that investigative activities are conducted in the most efficient and effective manner, and are completed in the shortest possible time.

(a) Unless circumstances warrant a longer period, EIO will endeavor to complete the preliminary evaluation within three months from receipt of the allegations.

(b) Depending on the complexity of the matter and the priority of the case, EIO aims to complete a full investigation within six months from initiating the same.

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26. The responsibility for case prioritization lies with the Director, EIO. Case priority is dynamic and may change throughout the investigative process as new information becomes available. In this regard, the Director, EIO takes into account the gravity of each allegation, the related risks to UNIDO of not acting promptly, and any other relevant factors.

27. The Annex presents the investigative process in a schematic way and in graphic format, as well as the relationship between the investigative process and the system of internal justice of UNIDO.

### **F.1. Preliminary Evaluation**

28. The purpose of the preliminary evaluation phase is to assess the allegations in a complaint in order to determine whether all of the following requirements are met in the complaint:

(a) **Mandate.** The allegations fall within EIO's scope of investigative authority, namely: (i) they could constitute misconduct as defined in para. 8 above; and (ii) they relate to UNIDO personnel and/or affects UNIDO property, resources, programmes or activities;

(b) **Credible.** The allegations are credible, in the sense that the available information indicates the existence of a reasonable factual basis to suspect that misconduct has occurred;

(c) **Verifiable.** The allegations are verifiable such that a full investigation is feasible, based on: (i) the length of time that has elapsed since the alleged misconduct occurred; (ii) the specificity of the information received; (iii) the availability of necessary records, evidence, and witnesses; and (iv) the likelihood of the investigation to result in a conclusive outcome; and

(d) **Material.** The allegations are material, meaning that the matter is of sufficient importance or gravity to justify the projected requirements of the full investigation.

29. The preliminary evaluation will also determine if the allegations can be independently and more effectively dealt with by another office within UNIDO without a full investigation.

30. In this phase, EIO may need to contact the complainant for further background information or clarification, as well as gather basic information about the alleged facts, and to secure readily available evidence. EIO may consult with management, the EAO, the HRM, and/or the LEG.

31. Based on the outcome of the preliminary evaluation, the Director, EIO determines whether a complaint warrants a full investigation. The Director, EIO has exclusive and independent authority for deciding whether to close a case or proceed with a full investigation.

32. The outcome of this phase will be recorded in a preliminary evaluation report or a closure note. These documents are confidential. They cannot be shared or distributed outside the investigation personnel of EIO without the express authorization of the Director, EIO.

33. In the event that an investigation is not warranted, the Director, EIO will inform the complainant of the outcome of the evaluation when the complainant is a staff member or has indicated his/her interest to be informed. The Director, EIO, may also inform the person who is the subject of the complaint, especially when this person has become aware of the complaint and its preliminary evaluation by EIO.

34. Should a complaint fall outside of EIO's mandate to investigate, the Director, EIO may, as appropriate, refer the matter to the relevant Secretariat officials or to another organization,

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or recommend to the Director General to consult with the LEG on whether it should be referred to the relevant national authorities.

## **F.2. Full Investigation**

### **F.2.1. General Principles**

35. The purpose of the full investigation phase is to ascertain all relevant facts, as much as feasible, in order to allow the competent authority to determine whether there is sufficient evidence to initiate a disciplinary procedure or administrative action. Accordingly, investigative activities by EIO are aimed at establishing the facts and collecting evidence to determine the truth (or otherwise) of allegations made, identify perpetrators, and establish relevant surrounding circumstances.

36. During an investigation, all subjects and investigation participants have a right to:

- (a) A presumption of innocence throughout the investigation;
- (b) Be treated with fairness;
- (c) A professional, impartial, and thorough investigation; and
- (d) Due care in the handling and sharing of confidential information.

37. For purposes of conducting an investigation, EIO shall have full, free, unrestricted and prompt access to all relevant information, records (in paper and electronic format), personnel, and property of UNIDO, in accordance with the EIO Charter and the Investigation Policy. The investigator has the authority to communicate with all persons relevant to an investigation and to request from them information, clarifications or statements.

38. All personnel have a duty to cooperate unreservedly with EIO investigations and to respond promptly and fully to EIO requests for information. Such cooperation includes, but is not limited to, the following:

- (a) All personnel must make themselves available to be interviewed and must reply promptly, fully, and truthfully to all reasonable questions asked;
- (b) All personnel must provide the investigator with any relevant items that are in their possession including, but not limited to, documents and other physical items or property; and
- (c) All personnel must preserve and protect the confidentiality of all information shared or discussed with the investigator.

39. The Director, EIO will report to the Director General any failure to cooperate with an EIO investigation. A lack of cooperation, lying or intentionally providing misleading information, may result in disciplinary or other appropriate action.

40. The Director, EIO may, at his or her discretion, for legitimate purposes, and on a need-to-know basis, inform other persons or entities of the existence of an investigation (e.g. to protect UNIDO's interests, safeguard UNIDO property, or to secure relevant evidence). The Director, EIO shall determine the extent of the information so disclosed and the conditions governing the disclosure, if any.

41. Upon request from the Director, EIO, the Director General may authorize temporary administrative measures to prevent the risk that the subject of an investigation tampers with

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evidence, influences witnesses, or otherwise impedes EIO's investigative process. Such measures shall not be deemed to be disciplinary measures.

### **F.2.2. Notification of Subjects**

42. After EIO's decision to initiate an investigation, the Director, EIO will normally give the subject advance written notice that he or she is the subject of an investigation into allegations of misconduct. The written notice should not be given less than 24 hours in advance of the scheduled time for the subject interview.

43. Exceptionally, taking into account the nature of the alleged misconduct, the evidence that needs to be collected, and the possibility that advance written notice could jeopardize the investigation, the Director, EIO may decide that the subject of an investigation should **not** receive advance written notice. In such a case, the investigator will orally notify the subject at the latest at the beginning of his or her first interview by EIO.

### **F.2.3. Electronic Evidence**

44. Electronic evidence comprises Information and Communication Technology (ICT) resources and data, such as e-mails, data on hard drives or other electronic storage devices, cell phones, and other portable devices, SIM cards, photographs, videos, and logs.

45. The ICT Policy provides that, in the context of an official audit, investigation, or other fact-finding work, EIO has full, free, unrestricted and prompt access to all electronic records that are relevant to the subject matter under review.<sup>10</sup>

46. Access to e-mail accounts and/or seizure of UNIDO-owned electronic devices requires prior notice to the Director General. EIO has authority to access all ICT facilities, resources and data remotely, without first informing the authorized user.

### **F.2.4. Interview**

47. During the course of an investigation, the investigator may interview various individuals including complainants, witnesses, and subjects. These individuals are referred to as interviewees. The purpose of an interview is to give the interviewee an opportunity to be heard, to elicit information relevant to the matter under consideration, and to record the interviewee's statement as evidence. The interviewee is invited to present his or her best recollection and understanding of a situation and to provide any relevant documents and information. Interviews differ from other forms of conversation in that they are meant to be recorded as evidence.

48. In the event that an interviewee declines to interact with the investigator or to respond to particular questions, this fact will be recorded together with the reason for the refusal, if given. Participating in interviews is part of the duty of personnel to cooperate with EIO, as explained in paragraph 38 supra.

49. Interviews are conducted face-to-face, to the extent possible. In some cases, it may be more appropriate and feasible to conduct the interview by telephone or other electronic means. EIO may also send a written query to the interviewee, as an alternative or a complementary step to the interview.

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<sup>10</sup> Information and Communications Technology Policy (DGB/2017/09), dated 6 November 2017 – as amended or superseded, where applicable.

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50. Interviewees are not paid for their information, except for specific professional fees of expert witnesses, when necessary, or reimbursement of reasonable travel expenses.
51. Considering the cultural context, gender and other elements of the case, EIO may select an observer (e.g. field security officer, or gender focal point) to attend the interview.
52. The following practices will apply to EIO interviews:
- (a) EIO notifies the interviewee in advance that he or she is invited for an interview and proposes the time, date, and place of the appointment.
  - (b) The interviewee is not entitled to have a legal representative present. The interviewee attends the interview alone. In exceptional circumstances, EIO may authorize an observer to accompany the interviewee. In this case, the interviewee shall communicate to EIO the reasons for needing an observer and the identity of the proposed observer. The interviewee is not allowed to consult the observer, and the observer may not take any action besides silently observing the interview (note-taking, however, is permitted).
  - (c) Interviews are conducted in one of the working languages of UNIDO familiar to the interviewee. The Director, EIO may decide to employ an interpreter in case the interviewee does not have sufficient knowledge of a working language.
  - (d) To the extent possible, interviews are conducted by two persons, depending on the nature and the circumstances of the interview.
  - (e) The interviewee is not entitled to review evidence that is part of the investigation file. However, the investigator may disclose such information in the course of the interview, at his or her discretion. In particular, the investigator will disclose evidence for examination by the subject in the course of the interview, and invite his or her explanation and comments thereon.
  - (f) EIO will audio or video record subject interviews. Other interviews may (or may not) be audio or video recorded, at the discretion of the investigator. The recording will be conducted openly with the knowledge of the interviewee.
  - (g) EIO will prepare a written record of the interview of the subject and invite the subject to review and sign it. For witness interviews, written records or interview summaries will normally be prepared.
  - (h) Where a subject cannot be interviewed for reasons beyond the control of the investigator, the absence of such an interview will not be considered a violation of the subject's due process rights, as long as reasonable efforts were made to interview the subject.

### **F.3. Reporting**

#### **F.3.1. Preparation and issuance of the final report to the Director General**

53. The outcome of a full investigation will be recorded in an investigation report, which typically includes an executive summary, a description of the allegations, background information, methodology, investigative details, findings and analysis, and conclusions and recommendations.
54. EIO provides the subject with a copy of the **draft investigation report**, not including conclusions and recommendations, and invites him or her to comment on the factual findings within ten calendar days. A subject who is on certified sick leave may still be invited to

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comment on the draft report, upon the discretion of the Director, EIO.<sup>11</sup> EIO will consider the subject's comments, correct any error of fact and attach the subject's comments to the final investigation report.

55. At its discretion and with due respect for confidentiality, EIO may consult with Management, the EAO, the HRM, and/or the LEG before finalizing its report.

56. The Director, EIO, reviews the draft investigation report, determines whether there is sufficient evidence to substantiate the allegations in the complaint, and issues a report on each investigation, with the following possible outcomes:

(a) When evidence disproves the allegations or is insufficient to substantiate the allegations, the Director, EIO will close the case and submit to the Director General an **investigation closing report**, for his/her information, with no further recommendation.

(b) When there is sufficient evidence to substantiate the allegations, the Director, EIO submits the **final investigation report** to the Director General for a decision on further action, including initiation of disciplinary proceedings or administrative actions against the subject.

### **F.3.2. Communication of the outcome of the investigation**

57. Investigation reports contain confidential and sensitive information about individuals and UNIDO operations and activities. Disclosure of such information may be detrimental to the Organization's functioning and/or the welfare and safety of its personnel or third parties, and may also violate the Organization's legal obligations. Therefore, EIO investigation reports are confidential and subject to restricted distribution.

58. The Director General decides on further distribution of investigation reports as necessary. EIO will give neither access to, nor a copy of, a report to any party unless expressly authorized to do so by the Director General. Reports of alleged retaliation are, however, shared with the Senior Ethics Officer, EAO.

59. EIO may inform the subject, the complainant and/or other investigation participants, as applicable, that it has concluded the investigation and submitted its final report to the Director General.

### **F.3.3. Management letters and other reports**

60. At any time, EIO may issue management letters to senior and other managers. A management letter is prepared to convey systemic recommendations regarding issues identified during the course of investigative activities that require immediate corrective action in order to strengthen internal controls and protect UNIDO from similar incidents in the future.

61. The Director, EIO shall coordinate the issuance of an Information Circular, normally annually, which summarizes the findings, recommendations, and management actions taken so far in connection with investigations that were completed during the reporting period. The anonymity of the subjects will be safeguarded.

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<sup>11</sup> If necessary, the Medical Adviser of the Organization may be consulted and requested to opine whether, from a medical perspective, the subject is fit and able to comment on the report without exacerbating the subject's medical condition which occasioned the sick leave.

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## **G. Referral to National Authorities**

62. If the Director, EIO has reasonable evidence of potential criminal conduct by any person, he or she may recommend to the Director General that, in consultation with the LEG, the issue be referred to the relevant national authorities.

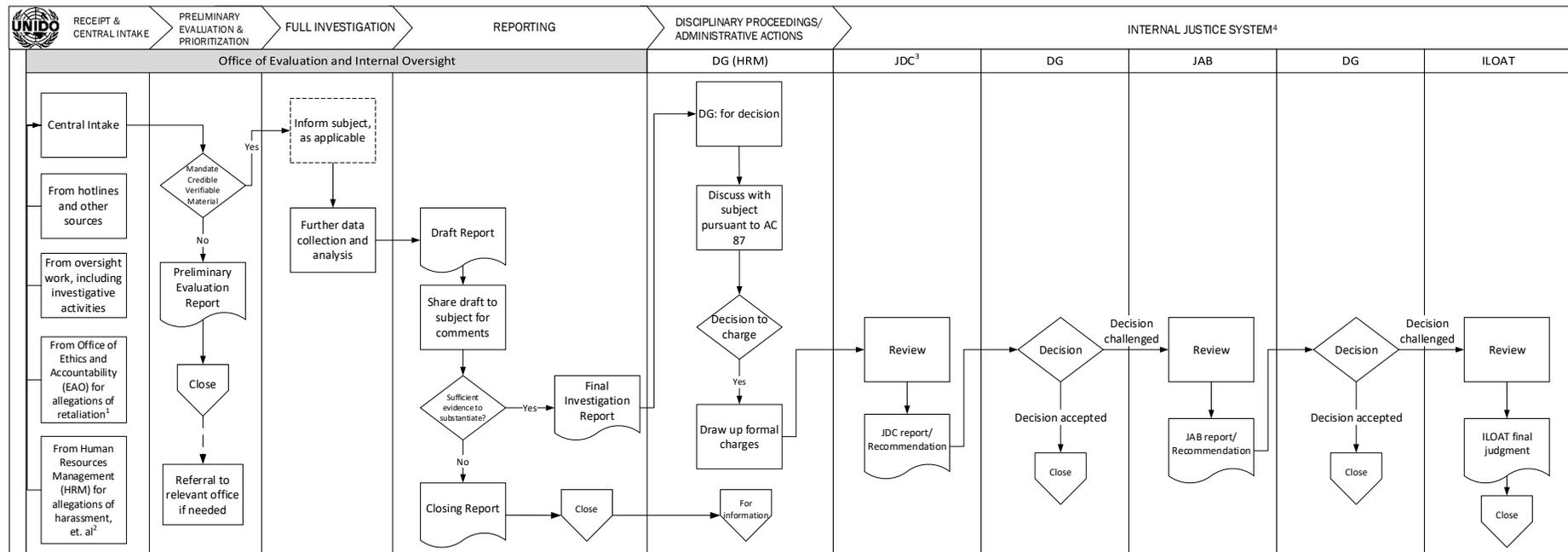
## **H. Cooperation with Other Offices**

63. EIO will meet with the EAO, HRM and the LEG on a regular basis, to share feedback and exchange views on the lessons learned based on the outcome of investigative work. EIO will also meet with HRM and the EAO on a regular basis to cooperate on the issuance of an Information Circular and implementation of the centralized complaint intake mechanism within UNIDO.

## **I. Amendment**

64. The Director, EIO may propose amendments to these Guidelines in the light of new developments and best investigative practices.

## ANNEX: OVERVIEW OF THE INVESTIGATIVE PROCESS AND INTERACTION WITH THE INTERNAL JUSTICE SYSTEM



- (1) After EAO preliminary review in accordance with the Policy on Protection against retaliation for reporting misconduct or cooperating with audit or investigations (DGB/(M.).116, dated 1 March 2010), as amended.
- (2) After HRM review in accordance with the Policy on Prohibition, prevention and resolution of harassment, including sexual harassment, discrimination and abuse of authority (DGB/2019/12, dated 4 June 2019), as amended.
- (3) Following the drawing up of formal charges, the matter can be referred to the Joint Disciplinary Committee (JDC), or a disciplinary sanction agreed with the subject without referral to the JDC, or the subject summarily dismissed for serious misconduct, also without referral to the JDC but with the right of appeal to the Joint Appeals Board (JAB).
- (4) The columns under Disciplinary Proceedings and Internal Justice System are outside EIO's mandate and are not covered by the Investigation Guidelines.