



**Asia-Pacific
Economic Cooperation**

APEC SECRETARIAT WHISTLEBLOWER POLICY

Last Update: February 2020

Contact: APEC Secretariat

Purpose

1. To ensure that the Asia-Pacific Economic Cooperation (APEC) Secretariat functions in an open, transparent and fair manner, with the objective of enhancing protection for individuals who report misconduct or cooperate with duly authorized investigations.

General

2. It is the duty of staff members to report any breach of the APEC Secretariat's Regulations and Rules to the officials whose responsibility it is to take appropriate action. An individual who makes such a report in good faith has the right to be protected against retaliation.

3. It is also the duty of staff members to cooperate with duly authorized investigations. An individual who cooperates in good faith with an investigation has the right to be protected against retaliation.

4. Retaliation means any direct or indirect detrimental action recommended, threatened or taken because an individual is engaged in an activity protected by the present policy. When established, retaliation is by itself misconduct.

Scope

5. Protection against retaliation applies to APEC Staff Members, Seconded, Consultants, Contractors or its Employees, Agents or representatives engaged in dealings with APEC Secretariat may use the procedures set out in this Whistleblower policy to submit confidential complaints to:

a. Report the failure of one or more staff members to comply with his or her obligations provided in the APEC Staff Regulations and Rules or other relevant administrative issuances, the Financial Rules and Rules relating to projects of the APEC, including any request or instruction from any staff member to violate the above-mentioned regulations, rules or standards. In order to receive protection, the report should be made as soon as possible and not later than one year after the individual becomes aware of the misconduct. The individual must make the report in good faith and must submit information or evidence to support a reasonable belief that misconduct has occurred; or

b. Cooperate in good faith with a duly authorized investigation.

False Complaints

6. A whistleblower who intentionally makes a false, fraudulent, malicious or frivolous complaint and which is subsequently found to be false shall be subject to disciplinary or other appropriate action. Reporting misconduct through established internal/external mechanisms

Reporting Misconduct through established internal/external mechanisms

7. Reports of misconduct should be made through the established internal mechanisms of APEC Secretariat. It is the duty of the Administration to protect the confidentiality of the individual's identity and all communications through those channels to the maximum extent possible.

8. Protection against retaliation will be extended to an individual who reports misconduct to an entity or individual outside of the established internal mechanisms of APEC Secretariat, where the criteria set out in subparagraphs (a), (b) and (c) below are satisfied:

a. Such reporting is necessary to avoid:

Substantive damage to APEC Secretariat's operations; or

Violations of national or international law; and

b. The use of internal mechanisms is not possible because:

At the time the report is made, the individual has grounds to believe that he/she will be subjected to retaliation by the person(s) he/she should report to pursuant to the established internal mechanism; or

It is likely that evidence relating to the misconduct will be concealed or destroyed if the individual reports to the person(s) he/she should report to pursuant to the established internal mechanisms; or

The individual has previously reported the same information through the established internal mechanisms, and APEC Secretariat has failed to inform the individual in writing of the status of the matter within six months of such a report; and

c. The individual does not accept payment or any other benefit from any party for such report.

Reporting Retaliation to the Ethics Panel

9. Individuals who believe that retaliatory action has been taken against them because they have reported misconduct or cooperated with a duly authorized investigation should forward all information and documentation available to them to support their complaint to the Ethics Panel as soon as possible. Complaints may be made in person, by regular mail or by e-mail.

10. The functions of the Ethics Panel with respect to protection against retaliation for reporting misconduct or cooperating with a duly authorized investigation are as follows:

To receive complaints of retaliation or threats of retaliation;

To keep a confidential record of all complaints received; and

To conduct a preliminary review of the complaint to determine if (i) the complainant engaged in a protected activity; and (ii) there is a prima facie case that the protected activity was a contributing factor in causing the alleged retaliation or threat of retaliation.

11. The Ethics Panel will seek to complete its preliminary review within 45 days of receiving the complaint of retaliation. Should any member/s of the Ethics Panel be named or implicated in the complaint, the member/s shall be recused from the Panel during for the duration of the investigations.

12. All officers and staff members shall cooperate with the Ethics Panel and provide access to all records and documents requested by the Ethics Panel, except for medical records that are not available without the express consent of the staff member concerned.

13. If the Ethics Panel finds that there is a credible case of retaliation or threat of retaliation, he/she will refer the matter in writing to the Executive Director for investigation to commence and will immediately notify in writing the complainant that the matter has been so referred.

14. Pending the completion of the investigation, the Ethics Panel may recommend that the Executive Director 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.

15. Once the Ethics Panel has received the investigation report, he/she will inform in writing to the complainant of the outcome of the investigation and make his/her recommendations on the case to the Executive Director. The recommendations may include disciplinary actions to be taken against the retaliator.

16. If the Ethics Panel finds that there is no credible case of retaliation or threat of retaliation but finds that there is an interpersonal problem within a particular office, he/she will advise the complainant to seek recourse to informal mechanisms of conflict resolution in APEC Secretariat.

17. If the Ethics Panel finds that there is a managerial problem based on the preliminary review of the complaint he/she will advise the Executive Director accordingly.

18. Where, in the opinion of the Ethics Panel, there may be a conflict of interest in APEC Secretariat conducting the investigation, the Ethics Panel may recommend to the Executive Director that the complaint be referred to an alternative investigating mechanism.

Protection of the person who suffered retaliation

19. If retaliation against an individual is established, the Ethics Panel may, after consultation with the individual who has suffered retaliation, recommend to the Executive Director appropriate measures aimed at correcting negative consequences suffered as a result of the retaliatory action. Such measures may include, but are not limited to, the rescission of the retaliatory decision, including reinstatement, or, if requested by the individual, transfer to another office or function for which the individual is qualified, independently of the person who engaged in retaliation.

Action against the person who engaged in retaliation

20. Retaliation against an individual because that person has reported misconduct on the part of one or more APEC Secretariat officials or cooperated with a duly authorized investigation of the APEC Secretariat constitutes misconduct which, if established, will lead to disciplinary action and/or transfer to other functions in the same or a different office.

Prohibition of retaliation against outside parties

21. Any retaliatory measures against a Consultant, Contractor or its employees, agents or representatives engaged in any dealings with the APEC Secretariat because such person has reported misconduct by APEC Secretariat staff members will be considered misconduct that, if established, will lead to disciplinary or other appropriate action.

Updates to APEC Budget Management Committee

22. The Executive Director shall provide regular updates to the APEC Budget and Management Committee (BMC) on cases received and the status of investigations.

Clarification

23. For clarification, please contact Director (Administration).