

**PRIVATE JOINT-STOCK COMPANY  
"HIGHER EDUCATION INSTITUTION  
"INTERREGIONAL ACADEMY OF PERSONNEL  
MANAGEMENT"**

**REGULATIONS**

**on the labour dispute commission  
Private Joint Stock Company "Higher Educational  
Institution "Interregional Academy of Personnel  
Management"**

Adopted by the Conference of  
the labour collective

PJSC "IAPM"

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This Regulation on the Labour Dispute Commission of the Private Joint Stock Company Higher Educational Institution Interregional Academy of Personnel Management (hereinafter referred to as the Regulation) defines the competence, procedure for the formation and operation of the Labour Dispute Commission of the Private Joint Stock Company Higher Educational Institution Interregional Academy of Personnel Management (hereinafter referred to as the Commission) in accordance with the legislation of Ukraine, in particular the Labour Code of Ukraine.

### **1. General provisions**

1.1. The Commission shall be a body established to consider individual labour disputes that may arise in the Private Joint Stock Company Higher Educational Institution Interregional Academy of Personnel Management (hereinafter referred to as the Academy), except for those for which the labour legislation of Ukraine and other laws establish a different procedure. The Commission is created on a partnership basis from representatives of the administration and employees of the Academy.

1.2. An individual labour dispute is an unresolved disagreement between the employer and the employee on the application of labour legislation and other regulatory legal acts containing labour law, collective agreement and personal labour agreement (including the establishment or change of individual working conditions), which is reported in writing to the Commission.

1.3. The Commission shall be a mandatory primary body for consideration of labour disputes arising at the Academy, except for disputes specified in Articles 222, 224, 232 of the Labour Code of Ukraine and in clause 4.2 of these Regulations.

A labour dispute shall be considered by the Commission if the employee, either independently or with the participation of a trade union organisation representing his/her interests, has not settled the disagreement in direct negotiations with the President of the Academy or his/her authorised body.

1.4. The parties to an individual labour dispute in the Commission shall be the employee and the employer represented by their representative (the immediate head of the structural unit of the Academy in which the labour dispute arose or his/her deputy).

1.5. The employee represents his interests in the Commission personally or at his request through his representative, who may be the primary trade union organisation of the Academy employees.

1.6. The trade union organisation shall have its representatives in the Commission who are its members.

1.7. This Regulation shall be approved by the Conference of the labour collective.

## **2. Establishment of the Commission**

2.1. The Commission is created by the order of the President of the Academy on the initiative of employees who are members of the trade union organisation or on the initiative of the administration, with an equal number of representatives of employees and the employer, elected by the Conference of the University staff, in the part that includes employees nominated to its composition by the Academy staff.

The procedure for election, number, composition and term of office of the Commission shall be determined by the Conference of the Academy's staff.

2.2. The staff of the Commission as a whole and instructions for organisational and technical support of its work, which includes the provision of equipped premises, allocation of equipment for maintaining and storing documents, office equipment, consumables, a separate office for the duration of the meeting, provision of necessary literature, preparation and issuance of copies of decisions, etc. shall be determined by the order of the President of the Academy on the establishment of the Commission.

2.3. The Commission shall elect from among its members a chairman, deputy chairman and secretary.

2.4. The work of the Commission shall be managed by its chairman (in his absence - by his deputy). The Secretary shall maintain and store the Commission's documents.

2.5. The members of the Commission shall work in its composition on a permanent basis for the entire period of the Commission's powers.

2.6. The members of the Commission shall be obliged to get acquainted with the norms of the labour legislation of Ukraine in detail and

be guided by them when resolving issues of their application in the practice of labour disputes.

2.7. The Conference of the Academy's labour collective, upon the proposal of the trade union committee or administration, may early withdraw from the Commission the members delegated by them if they have shown unfair attitude to their duties, bias and incompetence in resolving labour disputes.

### **3. Organisation of the Commission's work**

3.1. If necessary, the Commission members shall be granted time off from work, with the preservation of their average salary, to prepare for and participate in the work of the Commission.

3.2. The members of the Commission shall not be subject to disciplinary sanctions by the administration without the consent of the Commission.

### **4. Competence of the Commission**

4.1 The Commission shall consider individual labour disputes:

- changes to the terms and conditions of the employment contract;
- disciplinary sanctions;
- compliance with the dismissal procedure;
- remuneration for work on working days and days off, in cases of transfer to a lower-paid position, part-time work and substitution
- on the employee's leave;
- related to the application to this employee of the norms and rules established by the legislation, contracts, regulations on remuneration and other acts adopted by the Academy, as well as other disputes related to the observance of the employment contract in any form.

4.2. The Commission **shall not consider** individual labour disputes upon applications of:

1) *employees*:

- on reinstatement, regardless of the grounds for termination of the employment contract;
- change of the date and wording of the reason for dismissal;
- on payment for the period of forced absence from work or performance of lower-paid work;

- on unlawful actions (inaction) of the employer in the processing and protection of the employee's personal data;
- on the application of labour legislation, which, in accordance with the current legislation, was previously resolved by the President or his authorised body and the trade union committee of the primary trade union organisation of the Academy employees within the limits of their rights;

2) *the President of the Academy or his authorised body:*

- on reimbursement by employees of material damage caused to the Academy.

These and other labour disputes shall be considered **directly in courts**.

4.3. The Commission shall have the right to summon witnesses to the meeting, instruct specialists to conduct technical, accounting and other inspections that may contribute to the legal and objective resolution of the dispute, and require the employer or its authorised body to provide the necessary calculations and documents.

Attendance of the persons summoned to the Commission is voluntary.

4.4. At the written request of the Commission, the employer (his/her representative) shall submit to the Commission all documents necessary for consideration of the labour dispute on the merits within the established time limit.

## **5. Procedure for employees to apply to the Commission**

5.1. Any employee of the Academy shall have the right to apply to the Commission with a request for consideration of a labour dispute between him/her and the employer on the merits.

5.2. The employee's application shall be registered in the registration book and kept by the Secretary of the Commission in the relevant file.

5.3. In his/her application, the employee shall state the essence of the labour dispute and his/her requirements.

5.4. The application may be accompanied by documents that, in the employee's opinion, confirm the legitimacy of his/her claims, or copies thereof, as well as a list of witnesses on the employee's side.

5.5. The employee may apply to the Commission within three months from the date when he/she learned or should have learned about the violation of his/her right, and in disputes over payment of wages due to him/her - **without any time limits**.

5.6. The Commission is obliged to consider an individual labour dispute in the presence of the applicant, as well as representatives of the head of the institution or his/her authorised body, within ten (10) calendar days from the date of submission of the application by the employee, including weekends and holidays. Consideration of the dispute in the absence of the employee is allowed only on the basis of his/her written application.

At the employee's request, a representative of the trade union body or another person may act on his/her behalf during the dispute consideration.

If the employee or his/her representative fails to appear at the meeting of the Commission, consideration of the application shall be postponed until the next meeting. If the employee fails to appear again without valid reasons, the Commission may decide to withdraw the application from consideration, which does not deprive the employee of the right to submit the application again, within three months from the date when the employee learned or should have learned of the violation of his/her right.

5.7. The application shall be addressed and sent directly to the Commission. Applications sent to other addresses shall not be considered by the Commission.

5.8. Applications addressed to the Commission shall be received by its chairman or secretary.

5.9. The fact of unresolved disagreements between the employer and the employee shall be established on the basis of the employee's personal statement and no other documentary evidence is required.

5.10. If the employee for valid reasons could not submit an application to the Commission within the three-month period established by clause 5.5 of this Regulation, the Commission may extend this period and consider the application on the merits. In this case, the Commission shall issue a relevant decision.

5.11. In case of violation of the three-month period **for unreasonable** reasons, as well as in case the Commission does not have the authority to consider the applications referred to in clause 4.2 of this Regulation, the Commission shall accept the employee's application and make a decision to reject his/her claims to consider the labour dispute.

## **6. Procedure for consideration and decision-making on a labour dispute at a meeting of the Commission**

6.1. A meeting of the Commission shall be deemed valid if at least two-thirds of its members are present.

6.2. The employee and the employer or its authorised body shall have the right to challenge any member of the Commission with a reasoned statement. The issue of recusal shall be resolved by a majority vote of the Commission members present at the meeting. A member of the Commission who has been recused shall not participate in the decision on recusal.

6.3. Minutes of the meeting of the Commission shall be kept, signed by the chairman or his deputy and the secretary of the Commission and sealed.

6.4. Prior to the meeting, the Commission's management determines in advance the list of required documents, the circle of witnesses, the list of evidence and everything else necessary for the correct resolution of the dispute on the merits. After that, the Chairman of the Commission, in agreement with the employee and the employer's representative, announces the date, time and place of the Commission.

6.5. The secretary or the chairman (deputy chairman) of the Commission shall notify the parties to the dispute and persons who are to attend the meeting of the Commission of the date, time and place of the meeting one business day in advance.

6.6. The absence of the employer (its representative) at the Commission shall not be a ground for withdrawal of the dispute from consideration.

6.7. The Commission's meeting is chaired by its chairman, and in his absence - by the deputy chairman.

6.8. At the meeting, the Chairman of the Commission shall determine the competence of the Commission and declare the meeting open.

6.9. The Chairperson shall establish (and subsequently inform the Commission members) the identity of the employee-applicant or his/her representative, employer's representative, specialists invited to the meeting, witnesses, and representatives of the trade union organisation present at the meeting.

6.10. The chairman shall inform the employee of the availability of a written statement. In the absence of the applicant (his/her representative), the content of the application is announced and a decision is made whether to consider the dispute or not. If the applicant is present, the chairman reads out the requirements set out in the application, announces the list of documents received by the Commission from the employer at its request,

and if such documents are not submitted or are partially submitted, informs the employee of this.

6.11. The chairperson gives the floor to the employee (his/her representative) to present the essence of the dispute and his/her claims against the employer. The commission hears witnesses, experts, and a representative of the trade union organisation.

6.12. The chairperson gives the floor to the employer's representative to present his/her point of view on the merits of the dispute. At the request of the employer's representative, the Commission hears witnesses from the employer's side, specialists, and representatives of the trade union organisation.

6.13. Members of the Commission may ask questions on the merits of the dispute to the applicant (his/her representative), the employer's representative, witnesses, experts, and the trade union representative, without entering into a discussion of the answers received and without commenting on them in any way.

6.14. The Commission members shall proceed to discuss the circumstances of the dispute under consideration.

6.15. The minutes of the meeting of the Commission, which shall be drawn up after the discussion, shall contain

- name of the Commission;
- the number of Commission members present at the meeting from each party, their names and initials;
- full name of the employee who filed the application;
- the essence of the dispute;
- presence of the employee (his/her authorised representative);
- presence or absence of the employer (his/her representative), name, position;
- presence of witnesses, specialists, their names, initials, positions, content of their speeches;
- questions asked by the Commission members and answers to them;
- the decision made and its justification.

## **7. Procedure for making a decision and its content**

7.1. The Commission shall adopt its decision by open voting, by a simple majority of votes of the Commission members present at the meeting.



The Commission's decision shall specify

- full name of the institution;
- full name, position, profession (speciality) of the applicant or his/her representative;
- date of application to the Commission and date of consideration of the dispute;
- the essence of the dispute;
- Surnames and initials of the Commission members and other persons who were present at the meeting and participated in the dispute consideration;
- the essence of the decision and its justification, with reference to the Labour Code of Ukraine and other regulatory legal acts (if applicable);
- voting results.

7.2. Copies of the Commission's decision, signed by the chairman and secretary of the Commission and sealed, are delivered by the secretary of the Commission to the employee and the employer or its authorised body within three working days.

The receipt of copies shall be confirmed by personal signatures of the employee and the employer (or their representatives) in the incoming and outgoing correspondence register.

7.3. If necessary, the Commission may use audio and video equipment at its meetings.

7.4. If the votes of the Commission members are **equally** divided during the voting, the decision shall be deemed **not adopted**. In this case, the employee who filed the application for consideration shall apply to **the court**.

7.5. The decision of the Commission consists of an introductory, descriptive, motivating and resolute part, which are expressed in a clear categorical form and do not allow for double interpretation.

7.6. The decision on monetary claims shall specify the exact amount of money to be paid to the employee.

7.7. The *introductory* part of the decision must specify the date and place of the decision, the name of the Commission that made the decision, the composition of the Commission, the chairman and secretary of the Commission, the parties, other persons who participated in the meeting, and the subject of the dispute.

7.8. *The descriptive* part of the decision must contain the employee's claims, objections of the employer's representative, and explanations of other persons involved in the case.

7.9. The *reasoning* part of the decision must specify the circumstances of the case established by the Commission, the evidence substantiating the Commission's conclusions on these circumstances, the reasons why the Commission rejects certain evidence, and the regulatory acts it is guided by. If the Commission refuses to consider the employee's application because the reasons for missing the deadline for applying to the Commission are found to be disrespectful, the reasoning part shall only state the established fact of these circumstances.

7.10. *The operative* part of the decision shall contain the Commission's conclusions on satisfaction or refusal to satisfy the claims in full or in part, the term and procedure for appealing the Commission's decision.

7.11. The decision shall be signed by all members of the Commission who were present at the meeting and certified by the Commission's seal.

7.12. Copies of the decision of the Labour Disputes Commission certified in the same manner shall be handed over to the employee and the employer (or their representatives) within three working days from the date of the decision.

7.13. The decision of the Commission regarding the dispute under consideration **deprives** the employee of the right to apply to the Commission again, even if he or she has acquired new evidence. The employee may take the dispute to court for further resolution.

## **8. Appeal against the Commission's decision**

8.1. If an individual labour dispute is not resolved by the Commission within ten days, the employee has the right to appeal to the court.

8.2. In case of disagreement with the decision of the Commission, the employee or the employer or the body authorised by him/her may appeal against this decision to the court within ten days from the date of delivery of the extract from the minutes of the Commission's meeting or a copy of the decision.

## **9. Execution of the Commission's decision**

9.1. The Commission's decision shall be enforced by the employer or its authorised body within three days after the expiration of the ten days

provided for its appeal (in accordance with Article 228 of the Labour Code of Ukraine), except as provided for in paragraph 5 of Article 235 of this Code.

9.2. In case the employer fails to comply with the Commission's decision within the established time limit, the Commission shall issue to the employee a certificate having the effect of a writ of execution.

9.3. The certificate shall indicate the name of the Commission that issued the decision, the date of its adoption and issuance, the number of the decision, the name and address of the applicant, the name and address of the debtor (in cases of consideration of monetary claims), the numbers of its bank accounts, the decision on the merits of the dispute, and the term for submitting the certificate for execution.

The certificate shall be signed by the chairman or deputy chairman of the Commission and sealed.

9.4. The certificate shall not be issued if the employee or employer or his/her authorised body within ten days from the date of delivery of the Commission's decision or an extract from the minutes of its meeting filed a request for resolution of the labour dispute with the court.

9.5. In accordance with the requirements of Article 230 of the Labour Code of Ukraine, on the basis of a certificate presented to the district department of the State Executive Service within three months, the State Executive shall enforce the Commission's decision.

