

INTERREGIONAL ACADEMY OF PERSONNEL MANAGEMENT

REGULATION

On the Labor Dispute and Compliance with Ethical Norms Commission of the Interregional Academy of Personnel Management

Adopted by the Conference of the
labor collective of the IAPM"
Minutes No. 01 of 26.01.2022
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Dated 05.04.2023.

This Regulation on the Labor Dispute and Compliance with Ethical Norms Commission of the Interregional Academy of Personnel Management (hereinafter referred to as the Regulation) defines the competence, procedure for the formation and operation of the Labor Dispute and Compliance with Ethical Norms Commission of the IAPM.

The Interregional Academy of Personnel Management (hereinafter referred to as the Commission), in accordance with the legislation of Ukraine, in particular the Labor Code of Ukraine.

1. General provisions

The Commission is a body established to consider individual labor disputes that may arise at the Interregional Academy of Personnel Management (hereinafter referred to as the Academy), except for those for which the labor legislation of Ukraine and other laws establish a different procedure. The IAPM has a process for employees to appeal on employee rights and/or pay. The Commission is created on a partnership basis from representatives of the administration and employees of the Academy.

1.1. An individual labor dispute is an unresolved disagreement between an employer and an employee on the application of labor laws and other regulations containing labor law, collective bargaining agreements and personal employment contracts (including the establishment or change of individual working conditions), which is reported in writing to the Commission.

1.2. The Commission shall be a mandatory primary body for consideration of labor disputes arising at the Academy, except for disputes specified in Articles 222, 224, 232 of the Labor Code of Ukraine and in clause 4.2 of this Regulation.

A labor dispute is subject to consideration by the Commission if the employee, either independently or with the participation of a trade union organization representing employee's interests, has not settled the disagreement in direct negotiations with the President of the Academy or his authorized body.

1.3. The parties to an individual labor 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 labor dispute arose or their deputy).

1.4. The employee represents their interests in the Commission personally or at employee's request through their representative, who may be the primary trade union organization of the Academy employees.

1.5. The trade union organization shall have its representatives in the Commission who are its members.

1.6. This Regulation is approved by the Conference of the labor collective.

2. Establishment of the Commission

2.1. The Commission is established by order of the President of the Academy on the initiative of employees who are members of the trade union organization, 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 the election, number, composition and term of office of the Commission shall be determined by the Conference of the Academy's staff.

2.2. The personnel composition of the Commission as a whole and instructions for organizational and technical support of its work, which includes the provision of equipped premises, allocation of equipment for maintaining and storing documentation, 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 elects a chairman, deputy chairman and secretary from among its members.

2.4. The work of the Commission shall be managed by its chairman (in his absence - by a deputy). The Commission's documentation shall be maintained and stored by its secretary.

2.5. The members of the Commission shall serve on a permanent basis for the entire duration of the Commission's powers.

2.6. The members of the Commission are obliged to familiarize themselves in detail with the norms of the labor legislation of Ukraine and be guided by them when deciding on their application in the practice of labor disputes.

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

3. Organization of the Commission's work

3.1. The members of the Commission shall, if necessary, 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 action by the administration without the consent of the Commission.

4. Competence of the Commission

4.1. The Commission considers individual labor disputes:

- on changing the terms of an employment contract;
- on disciplinary sanctions;
- on compliance with the dismissal procedure;
- on remuneration for work on working days and weekends, in cases of transfer to a lower-paid position, part-time work and substitution;
- on employee's vacation;
- related to the application to a given employee of the norms and rules established by law, 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 **does not consider** individual labor disputes based on applications:

1) *employees:*

- on reinstatement in the job, regardless of the grounds for termination of the employment contract;
- on changing the date and wording of the reason for dismissal;
- to change the date and wording of the reason for dismissal;
- on unlawful actions (inaction) of the employer in processing and protecting the employee's personal data;
- on the issue of application of labor legislation, which, in accordance with the current legislation, have been previously resolved by the President or his authorized body and the trade union committee of the primary trade union organization of the Academy employees within the limits of their rights;

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

- on compensation by employees for material damage caused to the Academy.

These and other labor disputes are considered **directly in the courts**.

4.3. The Commission has 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 necessary calculations and documents from the employer or its authorized body.

The presence of the persons summoned at the Commission is voluntary.

4.4. At the written request of the Commission, the employer (its representative) is obliged to submit all documents necessary for consideration of the labor 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 has the right to apply to the Commission with a request to consider a labor 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 their statement, the employee sets out the essence of the labor dispute and employee's requirements.

5.4. The application may be accompanied by documents that, in the employee's opinion, confirm the legitimacy of their 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 they learned or should have learned of the violation of his or her right, and in disputes over the payment of wages due to him or her – **without any time limits**.

5.6. The Commission is obliged to consider an individual labor dispute in the presence of the applicant, as well as representatives of the head of the institution or their authorized 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 employee's written application.

At the request of the employee, a representative of the trade union body or another person may act on their behalf during the dispute consideration.

In case of failure of the employee or employee's representative to attend 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 or her right.

5.7. The application must 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 are accepted by its chairman or secretary.

5.9. The fact of unresolved disagreements between the employer and the employee is established on the basis of the employee's personal statement and does not require any other documentary evidence.

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 make a corresponding 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 specified in clause 4.2 of this Regulation, the Commission shall accept the employee's application and decide to reject their request to consider the labor dispute

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

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

6.2. The employee and the employer or its authorized 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's meeting.

6.5. The secretary or 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 before it is held.

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

6.7. The Commission's meetings are chaired by its chairman, and in his absence by the deputy chairman.

6.8. The Chairperson of the Commission shall determine the competence of the Commission at the meeting and declare the meeting open.

6.9. The chairperson establishes (with subsequent notification of the Commission members) the identity of the employee-applicant or employee's representative, employer's representative, specialists invited to the meeting, witnesses, representatives of the trade union organization present at the meeting.

6.10. The chairperson informs the employee of the availability of a written statement. In the absence of the applicant (their 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 presiding officer reads out the requirements set forth 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, notifies the applicant of this.

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

6.12. The chairperson gives the floor to the employer's representative to present their 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, representatives of the trade union organization.

6.13. The Commission members may ask questions on the merits of the dispute to the applicant (or their representative), the employer's representative, witnesses, specialists, and a representative of the trade union organization, without entering into a discussion of the answers received and without commenting on them in any way.

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

6.15. The minutes of the Commission's meeting, which shall be drawn up after the discussion, shall contain the following information:

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

7. Procedure for making a decision and its content

7.1. The Commission takes decisions by open voting, by a simple majority of votes of the Commission members present at the meeting.

The Commission's decision states:

- full name of the institution;
- full name, position, profession (specialty) of the applicant (or their 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 attended the meeting and participated in the dispute consideration;
- the essence of the decision and its justification, with reference to the Labor Code of Ukraine and other regulatory legal acts (if applicable);

- the results of the voting.

7.2. Copies of the Commission's decision, signed by the chairman and secretary of the Commission and sealed, shall be delivered by the secretary of the Commission to the employee and the employer or his authorized body within three working days.

Receipt of copies is confirmed by the personal signatures of the employee and the employer (or their representatives) in the incoming and outgoing correspondence log.

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 is considered to be **unacceptable**. In this case, the employee who filed the application for consideration shall apply to the **court**.

7.5. The Commission's decision 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 indicates the exact amount of money to be paid to the employee.

7.7. *The introductory part* 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 matter of the dispute.

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

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

7.10. *The resolute part* of the decision must contain the Commission's conclusions on satisfaction of the claims or refusal to satisfy them in whole or in part, the term and procedure for appealing the Commission's decision.

7.11. The decision is signed by all members of the Commission who attended the meeting and certified by the Commission's seal.

7.12. The copies of the decision of the Labor Disputes Commission certified in the same manner shall be delivered to the employee and the employer (or their representatives) within three business days from the date of the decision.

7.13. The decision of the Commission on 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 labor dispute is not considered by the Commission within ten days, the employee has the right to apply to the court for its consideration.

8.2. In case of disagreement with the decision of the Commission, the employee or employer or their authorized body may appeal 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. Implementation of the Commission's decision

9.1. The Commission's decision must be implemented by the employer or its authorized body within three days after the expiration of the ten days provided for appealing it (in accordance with Article 228 of the Labor Code of Ukraine), except as provided for in Article 235(5) of this Code.

9.2. If the employer fails to comply with the Commission's decision within the prescribed timeframe, the Commission issues the employee a certificate that has the effect of a writ of execution.

9.3. The certificate shall indicate the name of the Commission that made the decision, the date of its adoption and issuance, the decision number, 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 deadline for submitting the certificate for execution.

The certificate shall be signed by the Chairman or Deputy Chairman of the Commission and stamped with its seal.

9.4. The certificate shall not be issued if the employee or employer or their authorized body, within ten days from the date of delivery of the Commission's decision or an extract from the minutes of its meeting, files a claim for resolution of the labor dispute with the court.

9.5. In accordance with the requirements of Article 230 of the Labor Code of Ukraine, on the basis of a certificate presented within three months to the district department of the State Enforcement Service, the state enforcement officer enforces the Commission's decision.