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STAFF RECOURSE MECHANISMS



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Introduction

Staff Regulations, Staff Rules, Statute and Rules of Procedure of the Administrative Tribunal provide for recourse where staff members have a dispute with the institution.



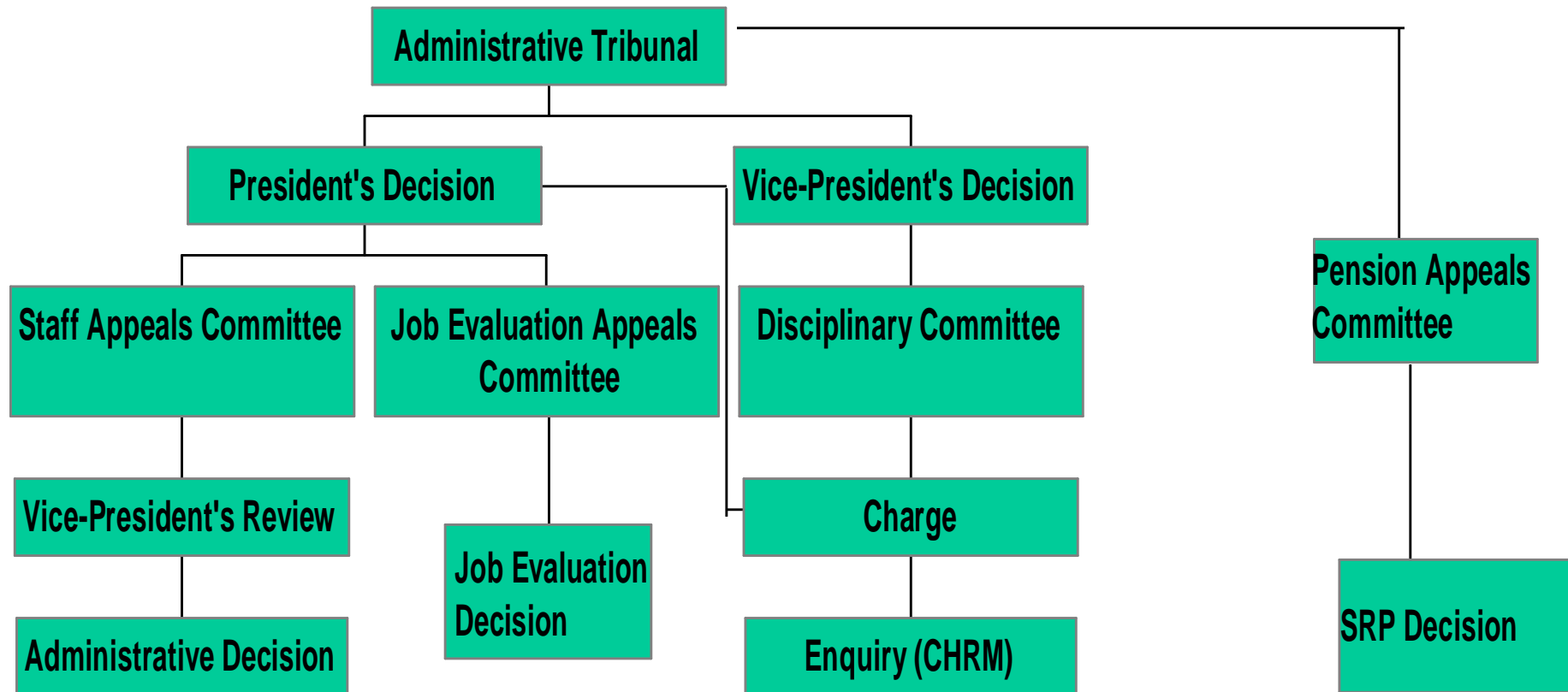
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Administrative Review Process

- **Staff Appeals Committee**
- **Specialised Appeal Mechanisms – Job Evaluation, Pensions**
- **Disciplinary Committee**
- **Administrative Tribunal**
- **Ombudsman**
- **Staff Council**



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The Administrative Review Process

Administrative Decision – “a determination by the Bank concerning the terms and conditions of employment of a staff member.”

Examples of administrative decisions: performance evaluation, termination of employment, demotion, job classification, granting or denial of a benefit etc.

Written Request to Vice President, Corporate Management for review within six months of notification of the decision to the staff member.

Vice-President to review and respond within thirty days.

If not satisfied or if no response, staff files Appeal.



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The Staff Appeals Committee

Composition

Twelve persons appointed by the President for a two-year term.

Chairperson and alternate Chairperson are current or retired staff members appointed in consultation with the Staff Council.

Other ten members are serving staff members, five of whom are appointed on the recommendation of the Staff Council.

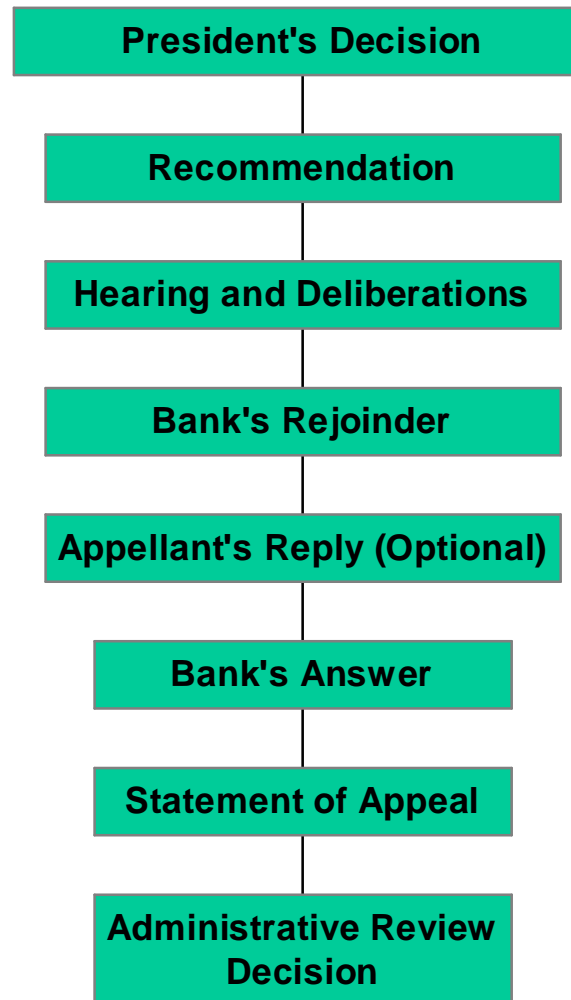
The Committee authorised to sit in three-person panels, including a member appointed from the Staff Council list.

Secretariat headed by a full time Secretary to the Committee.



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Appeals Committee Process





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Steps in the Appeal Process

- 1. Appellant's Statement of Appeal (within 30 days of Vice-President's decision on review)**
- 2. Respondent (Bank)'s Answer (within 60 days)**
- 3. Appellant's Reply (within 15 days)**
- 4. Bank's Rejoinder (within 15 days)**
- 5. Hearing (within 60 days of last submission)**
- 6. Committee's Recommendation to President (within 30 days of conclusion of proceedings)**
- 7. President's Decision (within 60 days of submission of Appeals Committee report)**
- 8. If not satisfied, Appellant may file Application with Administrative Tribunal (within 90 days of President's decision)**



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Prescribed Standards

- i) Members of the Staff Appeals Committee must be persons of high integrity, impartiality and recognised professional or technical competence familiar with the Bank's activities.**

- ii) Appellants are entitled to impartial and full hearing Committee members who have a conflict of interest or whose impartiality is in doubt are disqualified from participating. A party may challenge the participation of any member of the panel on grounds that such member is not impartial.**

- iii) Either party may produce documentary evidence and call witnesses who may be cross-examined. The Appeals Committee has authority to request documents and witnesses as relevant.**



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- iv) Appellants are present throughout the hearings and may be assisted by a member of staff who may address the Committee on their behalf.**

- v) Bank is normally represented by a representative of the Director, CHRM. However, if the Bank chooses to be represented by legal counsel during any appeal proceedings, it must notify the Appeals Committee and in that case, the Appellant may also choose to be represented by a lawyer from outside the Bank.**

- vi) Written record of the proceedings available to appellants.**

- vii) Appeals Committee submits Annual Report to the President which is circulated to the Board of Directors.**



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Specialised Appeal Mechanisms

Certain matters excluded from the Appeals Committee's mandate – e.g. job classification appeals dealt with separately by technical experts.

Staff Retirement Plan matters - Pension Appeals Committee makes decisions binding on the Staff Retirement Plan. Its decisions are subject to appeal to Administrative Tribunal.



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Performance Evaluation

Recourse to Management Review Committee, prior to any resort to the normal administrative review mechanism, the Appeals Committee and the Administrative Tribunal.



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Administrative Tribunal

Ultimate forum for recourse - decisions are final and binding on the Bank.

Jurisdiction effective from 1 January 1998 following the adoption of its Statute by the Board of Directors in July 1997.

Management's proposal for the establishment of the Tribunal, approved by the Board of Directors, informed by a study of the Administrative Tribunals of other institutions including IMF, World Bank, the IADB, and ILO.

Rules of Procedure of the Tribunal adopted by the Judges are also informed by the Rules of Procedure of other Tribunals.



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Composition

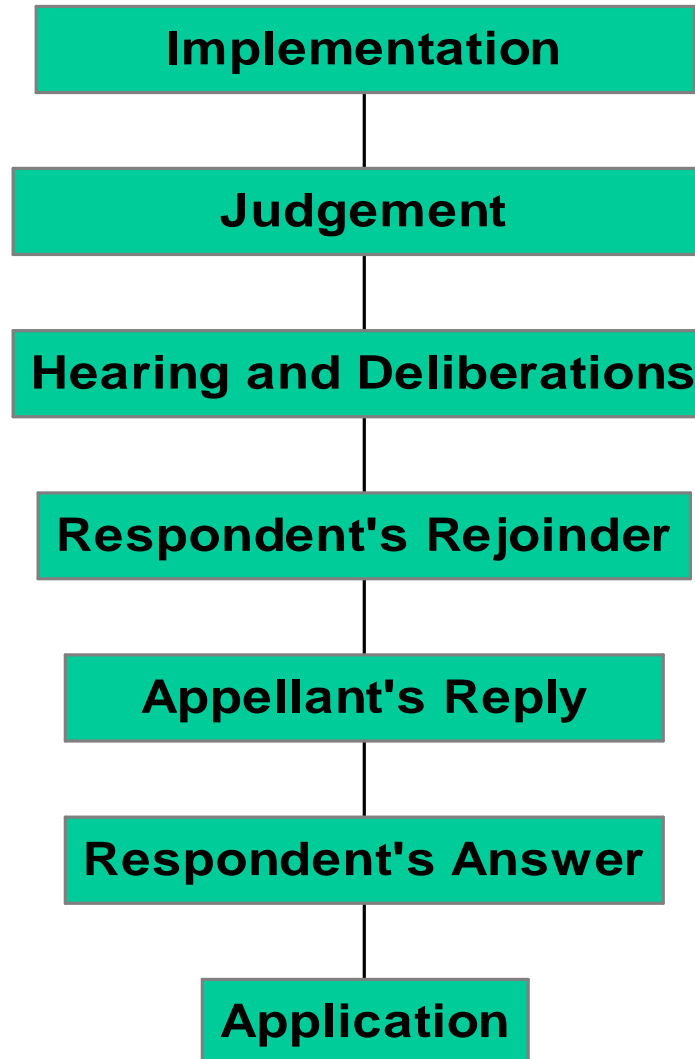
Six judges who are distinguished jurists appointed by the Board of Directors from outside the Bank to serve for three-year terms.

Secretariat is headed by a full time Executive Secretary.



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Administrative Tribunal Process





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Steps in Administrative Tribunal Process

1. **Application (within 90 days of final decision)**
2. **Respondent's Answer (within 30 days)**
3. **Applicant's Reply (within 30 days)**
4. **Respondent's Rejoinder (within 30 days)**
5. **Hearing by Tribunal**
6. **Judgement of Tribunal - Final and Binding on the Parties**



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The Law Applied by the Tribunal

The Statute of the Tribunal provides that the Tribunal shall apply “*the internal rules and regulations of the Bank, and generally recognised principles of international administrative law concerning the resolution of employment disputes of staff in international organisations*”.

Questions of its competence in individual cases are decided by the Tribunal in accordance with its Statute.



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Conduct of Proceedings

Judges are required to discharge their duties completely independent of the Bank and any other authority and are not to receive instructions or be subject to any constraint.

After receiving written submissions, the Tribunal conducts oral hearings for most cases. Hearings are open to all staff. Judgements are published on the Bank's intranet and are generally available to staff.

At least one session has been held every year.

In most years two sessions have been held.



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The Record of the ADB Administrative Tribunal

The Tribunal has in its seven years of existence established itself as an independent and respected institution that has decided cases impartially and independently thereby winning the confidence of staff as well as of Management.



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Disciplinary Committee

Composition

The Disciplinary Committee is made up of a list of panellists established by the President in consultation with the Staff Council.

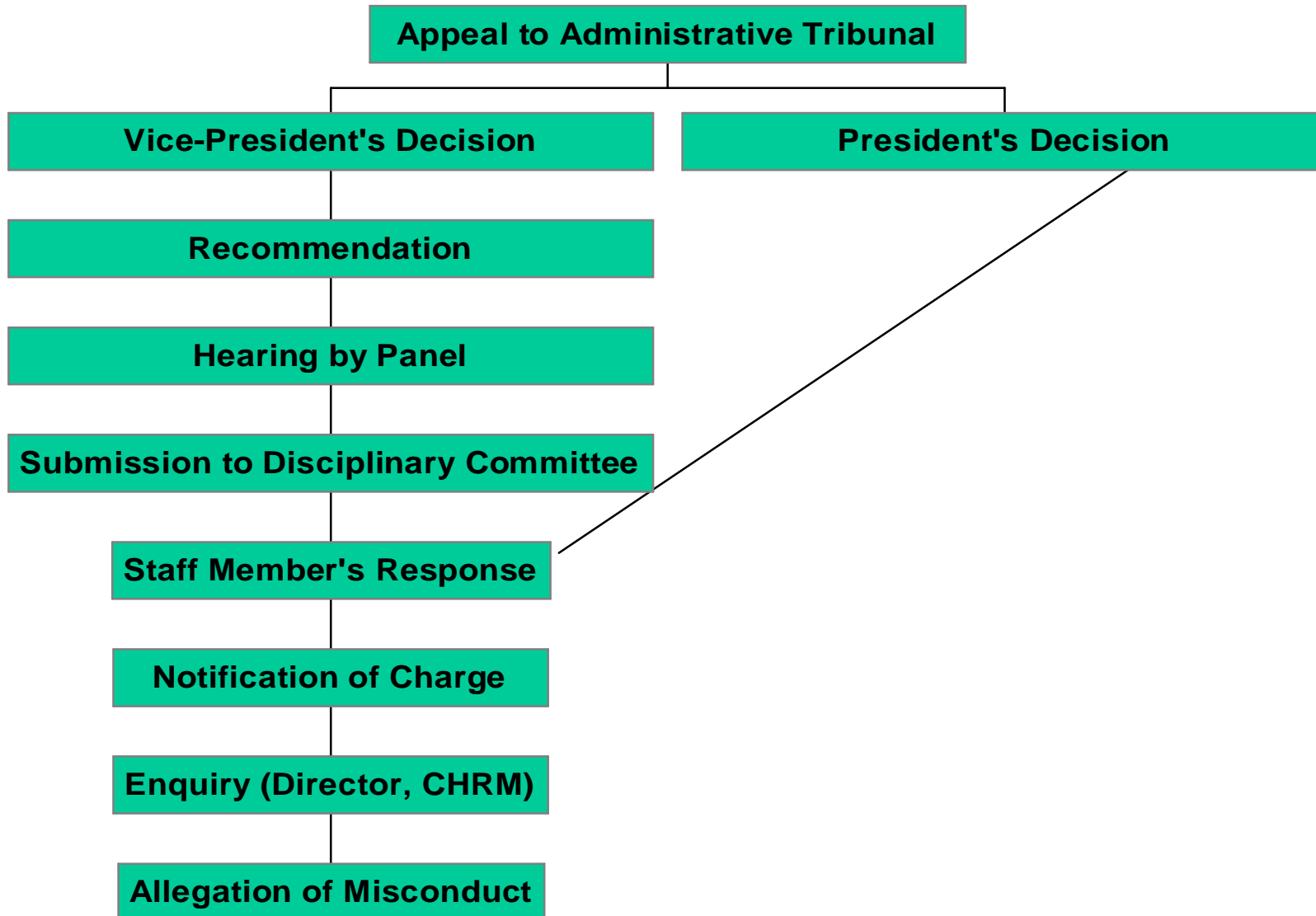
Six of the panellists on the list are nominated by the Staff Council and six by the President.

A panel is constituted by three persons including one of the members nominated by the Staff Council.



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Disciplinary Process





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Ombudsman

The function of the Ombudsman as provided for in the Staff Rules is to facilitate conflict resolution using mediation and conciliation or other appropriate means for settling grievances on employment matters between staff members and the Bank.

The Ombudsman is independent and has direct access to the President. The Ombudsman also has access to documents and files pertaining to grievances referred to him and to Bank officials who may be involved in a particular matter.

The Ombudsman is required to exercise independent and objective judgement in evaluating grievances brought to him and make suggestions or recommendations to either party on actions needed to settle a grievance. Such suggestions and recommendations are not binding.



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Staff Council

The Staff Council as the elected body whose function is to represent the body of staff makes representations as it deems appropriate to Management on issues of concern to staff. Its mandate includes safeguarding the rights and promoting the legitimate interests of staff.

Staff members who have conflicts with the Bank have the option of bringing these matters to the attention of the Staff Council and seeking the Staff Council's support as appropriate.

The Staff Council has regularly attended proceedings of the Administrative Tribunal and has supported staff in their disputes with the Bank.