

DECISION No 8/2018
OF THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE
COOPERATION OF ENERGY REGULATORS

of 7 June 2018

on the Framework for Learning and Development

THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials of the European Union ('Staff Regulations') and the Conditions of Employment of Other Servants of the European Union ('CEOS'), laid down originally by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Article 24a and 57 of the Staff Regulations and Articles 11, 16, 81 and 91 of the CEOS,

Having regard to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators², and, in particular, Article 28(2) thereof,

Having regard to Communication C(2014)6543 final of 26 September 2014 from Vice-President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and, in particular, Point 2.B thereof,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2017) 6772 of 9 October 2017,

After consulting the Staff Committee on 23 February 2018,

Whereas:

- (1) On 8 July 2016, the Commission informed the Agency that it adopted Decision C(2016)3828 on the implementation of the learning and development strategy of the European Commission, Decision C(2016)3855 on training on the own initiative of the member of staff and Decision C(2016)3827 repealing existing rules on learning and development, all adopted on 24 June 2016.
- (2) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 1 shall apply by analogy to the Agency. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules. The Commission may, instead of accepting or rejecting the request, require the agency to submit for its agreement implementing rules that are different from those adopted by the Commission.

¹ OJ L 56, 4.3.1968, p. 1.

² OJ L 211, 14.8.2009, p.1

- (3) Agencies differ from the Commission, thus Commission Decisions C(2016)3828 and C(2016)3855 should be adjusted in order to take into account the peculiarities of the Agencies. Those adjustments concern in particular the actors involved in the implementation of the learning and development strategy, the specific provisions on the training on the own initiative of the staff member, namely number of days granted as a special leave and the amount of a financial support from the Agency.
- (4) Commission Decision C(2016)3827 is not suitable to apply to the Agency since the Agency does not apply the Commission previous rules on learning and development, as repealed by Decision C(2016)3827.
- (5) On 24 June 2016, the Director-General for Human Resources and Security of the Commission adopted rules on access to training, in implementation of the learning and development strategy of the European Commission. These rules have not been communicated to the agencies under the procedure laid down in Article 110(2) of the Staff Regulations, as they are not the Commission implementing rules in the meaning of the Staff Regulations. However, the Agency intends to adopt similar rules in order to provide further clear guidance to managers and staff regarding access to training.
- (6) Pursuant to Article 45(2) of the Staff Regulations, as well as Articles 54 and 85 of the CEOS, the Agency shall, for staff members concerned by the requirement to demonstrate the ability to work in a third language, facilitate access to training to the applicants who require it.
- (7) For the Agency to respond to changes in tasks and technology, to be more effective at achieving its goals and to be a knowledgeable, skilled, flexible and networked organisation serving Europe, the Agency should adopt its learning and development policy that is tailored to its own needs and priorities.
- (8) The practical implementation of the Agency's Policy should be delegated to the HRM Team, the Departments and the Joint Committee within the Agency should be consulted on the implementation of the Agency's Policy.
- (9) Staff learn from experience and from colleagues as well as from training and therefore the agencies should seek to ensure that on-the-job learning is effective, in addition to classroom or other forms of training.
- (10) Managers have a key role in promoting an environment which supports on-the-job learning, collaborative working and knowledge-sharing and to help their staff to learn.
- (11) In order to provide clear guidance to managers and staff, it is necessary to adopt rules on access to training, in particular, with respect to the need for prior and explicit approval of the Head of Department and confirmation of participation in training. It is necessary to define in a clear and objective manner the criteria upon which special leave can be granted for training on the initiative of the staff member and the partial reimbursement of the registration cost.
- (12) The Commission amended Commission Decision C(2013)9051 final of 16 December 2013 on leave, which applies by analogy to the Agency, to take into account the specific rules on granting of special leave to attend training on the staff member's own initiative.

- (13) It is therefore necessary to adopt a decision on the implementation of a learning and development policy within the Agency,
- (14) In the interest of clarity and legal certainty, Decision No 06/2012 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 13 March 2012 on staff training should be repealed and replaced by this Decision,

HAS ADOPTED THIS DECISION:

Chapter I

The Agency learning and development policy

Article 1

Adoption

The Head of Agency, as referred to in the Act establishing the Agency for the Cooperation of Energy Regulators (hereinafter referred to as the "Agency"), shall adopt a learning and development policy ('the Agency Policy').

Article 2

Implementation

The implementation of the Agency policy shall be delegated to the HRM Team which may publish further administrative notices which may include detailed provisions and practical procedures for the application of working time provisions in the field of training, as provided for under Article 9 (2) of the Decision No 08/2016 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 4 April 2016 on Working Time.

Article 3

Consultation

The Departments and the Joint Committee shall be consulted on the implementation of the Agency Policy.

Article 4

Modification of the Commission's Decision on leave

Article 2 of the Commission's Decision C(2016) 3855 on training on the own initiative of the member of staff³ shall apply by analogy to the Agency.

Chapter II

Rules on access to training organised or paid for, or both, by the Agency

Article 5

Subject matter and scope

- (1) This Chapter defines the training for which an explicit approval is required prior to attendance and the criteria for granting that approval.
- (2) This Chapter applies to training organised or paid for, or both, by the Agency.

Article 6

Definitions

For the purpose of this Chapter, the following definitions shall apply:

- (a) 'On-the-job learning' means learning which takes place while carrying out duties which form part of the job description and may include, for example, learning from direct experience, from colleagues, from knowledge-sharing and from information on-line or in printed material.
- (b) 'Training' means all learning activities which take place outside the exercise of the standard duties of the job and may include, for example:
 - (i) participating in classroom training, e-learning, workshops, speaker events or conferences inside or outside the Agency;
 - (ii) following blended learning modules;
 - (iii) study visits;
 - (iv) coaching.

Article 7

Administrative choice between on-the-job learning and training

³ Article 2 provides the following: 'Point II.b.11 of the Annex to the Commission' Decision of 16 December 2013 on leave C(2013) 9051 final shall be removed'.

The Head of Department shall decide whether the learning activity is on-the-job learning or training.⁴ In case of doubt, the Head of Department shall take the decision, consulting his or her own hierarchy or staff of the HR function, or both, as appropriate.

Article 8

Prior and explicit approval

- (1) Training shall be subject to prior and explicit approval Head of Department if:
 - (a) it is primarily undertaken during working time or
 - (b) it has a direct or indirect financial cost for the Agency.
- (2) Where training requires prior and explicit approval from the Head of Department, the Head of Department may, except in case of language training, grant approval only if the training is:
 - (a) necessary for the current job as defined in particular by the job description or the objectives;
 - (b) necessary for future professional development.

Time spent in such training shall be credited in the balance of working time.

When granting approval, the Head of Department shall specify whether the training falls under point (a) or point (b). If the training request does not fall in either of those two categories, the Head of Department shall refuse it.

- (3) In the particular case of language training, by derogation from paragraph 2, prior and explicit approval may be granted by the Head of Department if the training is:
 - (a) essential for Article 45(2) of the Staff Regulations as well as Articles 54 and 85 of the CEOS, namely demonstration of the third language;
 - (b) necessary for the current job, as defined in particular by the job description or the objectives, or concerns an official language of the host country / of the place of employment which is necessary for integration in the host country and is an official language of the EU;
 - (c) necessary for the work and objectives of the Agency;
 - (d) necessary for future professional development.

When granting approval, the Head of Department shall specify whether the training falls under any of points (a) to (d). If the training request does not fall in any of those four categories, the Head of Department shall refuse it.

⁴ In cases where the learning activity is considered to be a combination of training and on-the-job learning provisions of this Decision regarding training shall apply.

- (4) When deciding on the training request, the Head of Department shall, in addition to the criteria laid down in paragraph 2 and paragraph 3, take into account the timing and the cost-benefit of the training.
- (5) Where a learning management system exists in the Agency and requests are made using the system, approvals and refusals shall also be made using that system. In other cases, replies to written requests shall be made in writing. Negative decisions shall be justified and transmitted to the HR function.

Article 9

Language training in the personal interests of the staff member and in the interest of multilingualism

In the interest of multilingualism and when it is also in the personal interests of the staff member, participation in language training may be authorised by the Head of Department, even if it does not meet the criteria set out in Article 8, paragraph 3. In such cases the following conditions shall be fulfilled:

- (i) participation may only be offered when the additional costs are negligible;
- (ii) training may be followed during core hours if the Head of Department agrees pursuant to Article 4.2 (a) of Decision No 08/2016 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 4 April 2016 on Working Time; and
- (iii) time spent in such training as well as travelling to and from the course shall not be credited in the balance of working hours.

Article 10

Confirmation of participation

- (1) In addition to the explicit prior approval of the Head of Department to participate in the training courses referred to in Articles 8 and 9, the following conditions shall be fulfilled:
 - (a) the necessary budget shall be available; and
 - (b) there shall be sufficient places available on the training course.

In the specific case of language training, priority shall be given to requests made in accordance with Article 8.3 (a), then to requests made in accordance with Article 8.3 (b), then to requests made in accordance with Article 8.3 (c), then to requests made in accordance with Article 8.3 (d), then to requests made in accordance with Article 9.

For other cases, priority shall be given to requests made in accordance with Article 8.2 (a).

- (2) Additional criteria may be set by the HRM Team responsible for organising the course or managing the corresponding budget line to ensure the cost-effectiveness of the training. These criteria may concern in particular the profile of the population targeted by the training. Any such criteria shall be published in due time.

Chapter III

Training on the initiative of the staff member

Article 11

Support for training on request of the staff member

- (1) The Agency may support training activities undertaken on the initiative of the staff member's if those activities:
 - (a) are not organised by the Agency; and
 - (b) are financed by the staff member themselves, subject to the possibility of financial support under the conditions described below; and
 - (c) take place during the free time of the staff member, subject to the possibility of obtaining special leave in compensation under the conditions described below.

These rules do not concern training organised and paid for in full by the Agency.

- (2) The Agency may support the activities referred to under point 1:
 - (a) by granting special leave, determined as stipulated in Article 13; and/or
 - (b) by the partial reimbursement of enrolment fees, determined as stipulated in Article 13.

Article 12

Eligible training activities

- (1) The only training activities deemed eligible within the meaning of this Chapter are those relating to the acquisition, perfecting or updating of professional knowledge or skills or an examination to test this knowledge or skills.
- (2) Activities eligible for financial support or support in the form of special leave must be in the interest of the service, i.e. they must meet at least one of the following criteria:
 - (a) be relevant to the duties performed by the person in his/her department;
 - (b) be relevant for career development at the Agency.

The training activity is not eligible if the person concerned has already participated in an identical or equivalent activity.

Article 13

Conditions for granting special leave and/or financial support to attend training or take an examination on the staff member's own initiative

- (1) Staff members applying for special leave and/or financial support for training on their own initiative must submit a request at least one month before the deadline for registering for the training. Applications for special leave must specify the place, dates and times of the courses or examinations to be taken. Where training is spread over several years, one application should be made per year.
- (2) As regards special leave, the authority empowered to conclude contracts of employment (AACC), and as regards a financial contribution, the authorising officer, shall decide on the request, taking into account the following criteria:
 - (a) the value of the training for the department or the Agency (see Article 12);
 - (b) the absence of possible alternatives more relevant for the Agency, such as, for example, internal training;
 - (c) the opinion of the Head of Department;
 - (d) the opinion of the HRM Team;
 - (e) compliance with the deadlines for submission of the application;
 - (f) the available budget (in relation to the request for financial support).

Once the application has been approved, the person concerned is entitled to financial support and/or special leave for training on their own initiative, provided they can supply the supporting documents referred to in Article 13.3.2. The special leave is credited once these supporting documents have been provided. The special leave is granted to compensate for the staff member's participation in the course and/or *participation* in examinations, under the conditions laid down in Article 13(2). To obtain a financial contribution for attending external training on the staff member's own initiative, the staff member, once the training has been completed, must submit a request for partial reimbursement to the HRM Team in line with the conditions foreseen in Article 13(4).

Special leave for training is not granted for the *preparation* of theses, dissertations, examinations, courses or other.

- (3) The staff member attending a training activity on their own initiative may be granted special leave calculated as follows:
 - (a) For classroom training, special leave of up to half the number of class hours;
 - (b) For any face-to-face components of distance learning courses (including e-learning), special leave of up to half the number of hours of classroom training;
 - (c) For distance learning courses (including e-learning), one day of special leave per examination or mandatory test passed on production of a certificate attesting to the fact.

In addition, the staff member may, in order to take part in examinations relating to training that meets the criteria set out in Articles 11 and 12 and 13(2), qualify for special leave up to the number of days (half or full days) required to take part in the examination.

The Head of Department shall recommend to the AACC responsible for individual special leave, the appropriate number of days of special leave, bearing in mind the above rules and the interest of the Agency.

The aggregation of periods of special leave granted under this Article may not exceed fifteen days per year. No travelling time can be granted for special leave. Special leave granted but not yet used at the end of the year is carried over automatically once to the following year.

- (4) To qualify for special leave to attend training, the staff member must present to the AACC responsible for individual special leave, at the end of the training or, for training activities spread over a number of years, at the end of each year, a statement showing the number of hours of participation in courses and examinations, issued by the educational establishment concerned.
- (5) To obtain a financial contribution for attending external training on the staff member's own initiative, for which approval has been given under 13(2) above, the staff member, once the training has been completed, must submit a request for partial reimbursement to the HRM Team using the appropriate form. The information specified in the form provided for this purpose, such as the programme, certificate of attendance or successful completion, registration fees and proof of payment should be attached to each request.

The request must reach the HRM Team no later than 3 months after the end of the training.

- (6) The Agency's financial contribution relates only to registration and examination fees under the conditions specified below, and excludes, in particular, travel expenses between the place of employment and the place where the training is held, and subsistence expenses.

Subject to the availability of funds, registration and examination fees relating to training followed on the staff member's own initiative in the interests of the service can be reimbursed by the Agency at a rate of 50%, up to a maximum of 1600 EUR per year.

The amounts corresponding to the expenses to be reimbursed are paid into the account used for salary payments, following participation in the training, on the basis of the attendance certificate, a receipted invoice or any other proof of payment, and the other documents required in the form referred to in Article 13(5).

Article 14

Justified refusal

A refusal to grant special leave or financial support for training on the applicant's own initiative must be substantiated and the applicant informed of the reason.

Chapter IV

Final provisions

Article 15

Decision No 06/2012 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 13 March 2012 on staff training is hereby repealed.

Article 16

The Commission's Decisions C(2016)3828, C(2016)3855 and C(2016)3827 do not apply by analogy at the Agency unless otherwise stated in this decision.

Article 17

Date of application

This Decision shall enter into force on the date of its adoption.

Done at Ljubljana, 7 June 2018.

For the Administrative Board

The Chair

Dr. R. JORDAN