

Guidelines to
Combat
Discrimination and
Sexualized
Violence

Preamble

In 2006, both the German General Act on Equal Treatment (AGG) and the Official Agreement on Fair and Respectful Behaviour in the Workplace of the University of Konstanz entered into force. In the university's mission statement and its Code of Practice on Gender Equality as well as in the framework of the Landeshochschulgesetz LHG (state law on higher education) in Baden-Württemberg from 2014, promoting diversity¹ is defined as a university responsibility that presupposes mutual respect and esteem. Gender mainstreaming at the university is being expanded to include a gender and diversity mainstreaming strategy. These developments make it necessary to revise the Guidelines on the Protection of Women against Sexual Harassment of 1998. As a consequence, the guidelines have been extended to cover the following areas of discrimination: homophobia, transphobia, racism, age and disability². The University of Konstanz has set itself the task of guaranteeing equal and respectful cooperation amongst its members and affiliates at all levels and supports measures that create and maintain a working atmosphere conducive to achieving this task. For this reason, it assumes responsibility within its jurisdiction for protecting the personal rights of all its members and affiliates.

1 Scope

These Guidelines apply for all the university's members³ and affiliates, including in particular all those persons who are not bound to the university through a public service or employment contract and are therefore not covered by the General Act on Equal Treatment (AGG). This applies to students, external doctoral researchers and scholarship holders⁴, since they are not in an employment relationship with the university.

2 Definition

These Guidelines cover the following types of discriminatory and degrading acts and conduct, which differ in nature and degree of severity:

- Sexist discrimination: Disparagement or disadvantage on grounds of gender, sexual orientation (e.g. homosexuality) or gender identity (e.g. transgender, queer, transsexual)
- Racial discrimination: Unequal treatment, remarks or acts of violence that are or are intended to be disparaging of individuals on grounds of their external

¹ cf. § 2 Paragraph 4 of the Baden-Württemberg Landeshochschulgesetz LHG (state law on higher education) (in the version of 09.04.2014)

² What we understand by disability is that "persons are disabled if their physical functions, mental capacities or psychological health are highly likely to deviate for more than six months from the condition typical for the respective age and the ability to participate in social life is restricted as a consequence. Persons are at risk of disability if such a restriction can be expected." § 2 para. 1 book IX of the German social code (SGB).

We additionally understand disability within the meaning of the UN Human Rights Convention of 2008. Within the meaning of this convention, "discrimination on the basis of disability" means any form of distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.

³ Cf. § 9 of the Baden-Württemberg Landeshochschulgesetz LHG (state law on higher education) (in the version of 09.04.2014)

- appearance or affiliation to an ethnic group, nationality or religion
- Age discrimination: Disparagement or disadvantage on grounds of age
- Discrimination on grounds of disability
- Sexual harassment (verbal and physical assaults on a person)
- Sexual violence (coercion and rape)
- Stalking (following or harassing persons so that their physical or mental integrity is directly or indirectly threatened and compromised to a considerable degree)

3 Forms of discrimination and sexualized violence

(1) Discrimination and sexualized violence manifest themselves in many different verbal and non-verbal forms. In accordance with these Guidelines, all practices and conduct are considered as forms of discrimination and sexualized violence that are generally recognised as likely to degrade, insult or coerce a person. This includes, for example:

- Sexually degrading and discriminating written or spoken comments
- Degrading remarks or jokes about people, their physical appearance, age, behaviour, ethnicity or physical and mental abilities
- Gestures and non-verbal forms of communication with sexual connotations
- Verbal, visual or electronic presentation of pornographic, sexist or racist material on university or private computers, tablets, smartphones etc., insofar as these do not serve a scientific purpose
- Unwanted physical contact or physical assault
- Unwanted requests for sexual acts or coercion to perform such acts
- Following and coercion with a sexual or racist background
- Intentional and repeated following and harassment (stalking) against the will of the party concerned

(2) Discrimination and sexualized violence that exploit a relationship of dependency at a place of training or employment or between students and their supervisors, especially under threat of personal or professional disadvantages, are judged as particularly grave.

(3) Discrimination and sexualized violence are a gross violation of personal rights. They create a climate of intimidation and humiliation that impairs not only the work satisfaction and ability to work of the aggrieved parties but also their health.

4 General prohibition

(1) The practices listed under 3 are prohibited.

(2) Due to their disruptive and damaging effect on university life, discrimination and sexualized violence can constitute a violation of the duties related to a public service or employment contract as well as civil servant or higher education legislation.

(3) All university members work towards ensuring that discrimination and sexualized violence do not occur. The respective superiors are responsible for making sure that discrimination and sexualized violence are stopped where possible but are in any case considered and treated as an infringement of rights in accordance with the General Act on Equal Treatment (AGG).

5 Responsibilities

(1) In accordance with § 4 para. 9 of the Baden-Württemberg Landeshochschulgesetz LHG (state law on higher education), the Rectorate appoints a female and a male contact person for a term of three years, who are responsible for providing counselling and support in cases of sexual harassment, sexualized violence, stalking and discrimination on grounds of gender⁵.

(2) Insofar as other responsibilities are not expressly allocated otherwise (cf. 5 (4)), the diversity coordinators of the Office for Equal Opportunity, Family Affairs and Diversity function as contact persons.

(3) The contact persons are not bound by instructions. Irrespective of the responsibilities incumbent on university bodies and committees, the diversity coordinators work towards ensuring that university members and affiliates are protected from discrimination and sexualized violence. Information about the personal or material circumstances of an aggrieved party may not be disclosed to third parties or otherwise utilised without their consent. The university defines rules regarding the further procedure.

(4) Moreover, aggrieved parties are free to contact any of the following with their complaints: the university's equal opportunity representatives, the equal opportunity representatives in the faculties, the staff council, the representative for employees with disabilities, the representative for students with disabilities or chronic illnesses (in accordance with § 13 of the university constitution in the version of 27.04.2015), their superior or dean of studies, the members of the Equal Opportunity Council, the student union (AStA) as well as Legal Affairs as the entity responsible for handling complaints. These notify the contact persons indicated under 5 (1) or (2) and liaise with them on the further procedure.

(5) The Rectorate can also appoint a diversity coordinator to address cases of discrimination on grounds of mental or physical disability/impairment. The responsibilities and rules of procedure for the representative for employees with disabilities in accordance with book IX of the German social code (SGB IX) remain unaffected.

6 Exposure of cases of discrimination and sexualized violence

(1) Aggrieved parties should be urged not to tolerate discrimination and sexualized violence but instead to make their rejection unequivocally clear and actively defend themselves. Moreover, witnesses are called upon not to look away but to approach the aggrieved party and pledge support if necessary.

(2) Responsible for receiving complaints are all persons entrusted with management and supervision tasks. They are generally obliged to investigate the matter and adopt suitable measures to prevent, follow up and resolve respective incidents in the event of suspicion. The contact persons in accordance with 5 (1) and (2) must be notified in all cases. They must review the complaint in terms of content. It is sufficient for aggrieved parties to feel subjectively that they are being discriminated against. They must, however, present convincingly to the contact persons the facts that have led to their own subjective perception of the circumstances, since no action on the complaint can otherwise be taken. The contact persons cease to pursue the issue further if the aggrieved parties explicitly declare themselves against such action.

(3) An aggrieved party may also approach the contact persons indicated in 5 (1) and (2) directly. These are on hand, by virtue of their office, to provide advice and support and are obliged to maintain confidentiality.

⁵ One of these contact persons is always a member of the Office for Equal Opportunity, Family Affairs and Diversity. Tasks, responsibilities and resources are specified in the Equal Opportunity Plan.

(4) If an incident of discrimination or sexualized violence becomes known, preliminary measures to protect the aggrieved parties must be adopted immediately and independently of the further procedure, if they so wish.

(5) The names of the aggrieved party and the person accused may not be made publicly known but instead only revealed to law enforcement authorities or disciplinary bodies in the framework of the university's legal obligations. The aggrieved party's name may only be revealed to the person accused if this is indispensable for proper testimony and defence. The aggrieved party otherwise has an unrestricted right to anonymity. Aggrieved parties may, insofar as their anonymity needs to be safeguarded, be represented by a person whom they trust.

(6) The university works to ensure that aggrieved parties and their representatives are not placed at any personal or professional disadvantage. All steps must therefore be undertaken in consensus with them.

(7) In particularly serious cases, especially if there are clear grounds for suspecting that further parties are at risk, the Rectorate may act without the aggrieved parties' consent. The aggrieved parties should, however, as far as possible be informed beforehand and assured suitable protection. The contact persons must be included in the decision.

(8) The right of aggrieved parties to defend themselves against discrimination and sexualized violence without the involvement of university entities and alone or together with their representative remains unaffected.

7 Measures and sanctions

(1) The measures and sanctions introduced should make it clear that the university does not tolerate discrimination and sexualized violence in any form whatsoever. Measures and sanctions depend on the position of the persons accused in terms of their public service or employment contract or of higher education legislation. Depending on the circumstances and severity of the individual case and whilst safeguarding the aggrieved party's wish for anonymity and need for protection, the university should consider the following informal measures:

- A personal meeting of the aggrieved parties or their representative and the person accused.
- A personal meeting of the superior or a person from the group of contact persons listed under 4 (3) and the person accused, making reference to the fact that discrimination and sexualized violence are prohibited.

(2) The following steps come into question as formal measures, in which the Rector, the respective contact person or another relevant entity are involved, depending on the position of the persons accused in terms of their public service or employment contract or of higher education legislation:

- A formal hearing⁶
- A verbal or written caution
- A written warning
- Transfer to another workplace (inside or outside the university)
- Exclusion from a course
- Exclusion from using university facilities
- Ban from entering university premises
- Exmatriculation
- Dismissal with due notice or immediate effect

⁶ In the event that the person accused is a professor, the Rector holds or delegates this hearing.

- Opening of disciplinary proceedings and imposition of disciplinary measures, which can include a reprimand, penalty, reduction in salary, transfer to another workplace or removal from office
- Reporting of a criminal offence by the Rector of the university

This list does not claim to be exhaustive. Requirements and proceedings in relation to the individual sanctions depend specifically on the relevant provisions.

(3) An aggrieved party has the right to decline to participate in informal and internal proceedings or to send a representative.

(4) Within the scope of its possibilities, the university guarantees an aggrieved party psychological and legal advice.

(5) The university offers training measures that allow its management personnel and persons with staff responsibility to acquire and improve their skills in dealing with problems associated with discrimination and sexualized violence⁷.

8 Effect, entry into force and publication

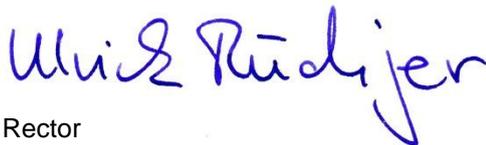
(1) Responsibility for instigating and implementing all formal proceedings lies with the Rectorate.

(2) The objectives set forth in these Guidelines constitute part of the public image of the University of Konstanz.

(3) The revised Guidelines were passed by the Equal Opportunity Council, recommended by the Senate and adopted by the Rectorate, following the approval of the staff council, on 10.06.2015. They replace the Guidelines of 15.07.1998.

(4) The Guidelines are published within the university and issued when new staff are appointed or take up office and when new students commence their studies.

Date 19 June 2015

Handwritten signature in blue ink, reading "Ulf Rüdiger".

Rector

⁷ Cf. § 12 para. 2 of the General Act on Equal Treatment (AGG).