University of Konstanz General Administrative Regulation on Implementing Statutory Provisions concerning Occupational Health, Safety and Environmental Protection

The German version of this document is the only legally binding version. This English translation is for your convenience only.

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On 17 July 2013, the University of Konstanz Rectorate issued the following general administrative regulation pursuant to § 2 para. 1 sentence 2 of the University of Konstanz constitution (Grundordnung - GO):

Introduction, general remarks

The statutory provisions on occupational health, safety and environmental protection require a wide range of organizational measures as well as numerous specific individual steps, thus extending beyond the pursuit of generally formulated protection goals. Among others, they address the “employer”, “entrepreneur” or “operator of a facility”.

The obligations that this entails include comprehensive measures for preventing accidents and guarding against risks to health and the environment and consequently require a corresponding organization of work processes.

These obligations can be summarized as follows:

- assessing the dangers associated with individual activities and determining and documenting protective measures (risk assessment),
- using sites, facilities and working materials correctly, in keeping with their purpose and intent and according to the relevant provisions,
- maintaining business facilities in a safe condition,
- drawing up workplace and task-related occupational instructions and familiarizing employees with such,
- making provisions for emergencies,
- conducting occupational health check-ups and observing any constraints on employment,
- protecting the environment and natural surroundings from harmful impacts,
- obtaining the required official authorizations and expert opinions.

In the academic field, these legal obligations invariably pertain to the individual university as a legal person and public body. These statutory provisions, and the individual specific obligations to act they contain, also apply without exception to academic institutions. Universities are thus to create an appropriate organizational structure. Academic freedom, as granted in Art. 5 para. 3 of the German constitution, neither entitles the university nor individual academics to disregard occupational safety and environmental protection regulations. The reason being that these provisions serve to protect general basic rights, in particular the basic right of employees, students and the population to life and to physical integrity, on the basis of which the regulations were decreed.

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1 e.g. Arbeitsschutzgesetz, Betriebssicherheitsverordnung, Arbeitsstättenverordnung, Gefahrstoffverordnung, Biostoffverordnung, Gentechnikgesetz, Strahlenschutzverordnung, Infektionsschutzgesetz as well as the Unfallverhütungsvorschriften of Baden-Württemberg’s accident insurance fund (“Unfallkasse”) as trustee of the statutory accident insurance board of the state of Baden-Württemberg.
Academic freedom and the related guaranteed right of the university to self-administration results, however, in universities having a heterogeneous and largely non-hierarchical administrative structure, as opposed to commercial businesses and other public bodies. Consequently, the binding nature and the implementability of university management decisions can be impaired in some areas. This, however, corresponds to a greater responsibility and obligation to act of both individual academics and office holders appointed on the basis of university law. As a result, a differentiated regulation is necessary that takes into account these various rights and duties. This is the very goal of the following administrative regulation on implementing the statutory provisions of occupational health, safety and environmental protection at the University of Konstanz.

1. Responsibility for occupational health, safety and environmental protection as part of a management position

The area-specific responsibility for implementing occupational health, safety and environmental protection measures within a management role stems either directly from the statutory provisions, or by a particular conferring or assuming of a management position of a section of the university.

Managers therefore assume “employer”/“entrepreneurial obligations” in the sense of ensuring the occupational safety and health and the environmental protection of employees and students etc. when they accept managerial responsibility for a part of the university. These obligations are derived from the authority to determine the tasks of their staff, the work outcomes to be achieved and setting priorities regarding the scope of work, the way of working and the use of funds.

The responsibility for individual measures can vary, according to type and subject, as well as the university’s organizational structure, and is dependent on the field of activity and role of the individual. Those in a management position and those who are responsible for tasks in e.g. teaching and research (professors, junior professors and university lecturers) and have the power to decide on resources and instruct personnel, are responsible for occupational health, safety and environmental protection in their area of responsibility. It therefore also extends to personal liability with the legal consequences this entails.

Office-holders are not responsible if they do not have the right of disposal over resources required for combating hazards. In this case they are obliged to insist that appropriate remedial measures are performed by the responsible area (as a rule the Facility Management division).

1.1. Responsible persons in the individual management areas

Within the university, this responsibility extends specifically to the areas assigned to them (human resources and material resources):

(1) Professors, junior professors, junior research group leaders and university lecturers who autonomously carry out the university’s tasks in academic matters, research and teaching in their particular disciplines.
(2) Office-holders (deans, heads of departments, etc.),
(3) Heads of university institutions, heads of divisions and staff units,
(4) Heads of collaborative research centres and other centres, insofar as they are responsible for personnel,
(5) Course instructors and coordinators of special events.

Those responsible are obliged to take all the measures and precautions in their respective areas that are specifically required in the statutory provisions and other policies on occupational health, safety and environmental protection, or are implied by generally formulated safety goals. Insofar as it is necessary for effective organizational rules or is deemed appropriate, these persons are mandated in writing by the Rectorate, to perform the tasks conferred to the employer on their own responsibility (§ 13 para. 2 occupational safety law, § 15 para. 1 no. 1 of the German social code VII, (SGB VII), § 13 accident prevention regulations "Grundsätze der Prävention", (principles of prevention), § 9 para. 2 no. 2 of the "Gesetz über Ordnungswidrigkeiten, OwiG" (German code on administrative offences).

1.2 Scope of responsibility

This responsibility extends to the respective entire area of management. In particular it includes the compiling and documenting of risk assessments (assessing working conditions, determining protective measures) and the other measures listed below:

- It must be ensured that business facilities are kept in a safe condition (e.g. premises, working materials, equipment, facilities for experiments, safety facilities) and materials are used in a safe way (e.g. pressurized gases, hazardous substances, biological substances etc.).
- Waste products must be disposed of in a safe and environmentally-friendly manner.
- Buildings, parts of buildings, rooms, facilities and working materials are used appropriately (as intended) and pursuant to the regulations. This particularly includes keeping emergency exits and routes for vehicles clear, ensuring fire doors are closed and complying with accessibility restrictions etc.,
- Work processes must be organized in line with occupational, health, safety and environmental protection regulations. In this context particularly the safety regulations in the case of work that involves hazards must be applied and adhered to. This includes assessing dangerous goods and biological substances and determining safety measures and behavioural guidelines for handling them, organizing fire and explosion safety measures, producing work place/task-related organizational instructions, instructing staff and drawing up the required documentation, safety-related modelling of occupational processes to prevent accidents/avoid occupational illnesses and comply with limits, monitor and control safety measures and employment restrictions, especially for expectant and nursing mothers and organizing the required occupational health check-ups.
- Recurring reviews must be organized and documented, review deadlines and the scope of reviews must be determined in collaboration with the “designated person”, and suitable “designated persons” respectively “approved monitoring instances” that perform reviews have to be selected.
Recognized accident hazards in one’s own area of responsibility have to be removed and – if this cannot be carried out with the means available – temporary precautions have to be taken to prevent accidents and the respective responsible persons/offices of the university’s administration have to be informed. If the faults that have arisen in one’s respective area of responsibility might spread (e.g. gas smell, danger of explosion, fire, bio-hazards etc.), and the responsible person cannot eliminate them, further help is to be sought immediately by informing a third party. The i-Point (i-Punkt) is to be notified without delay.

Facilities (equipment, facilities for experiments) that are defective and that constitute a threat to human life or the health of employees (pursuant to § 2 para. 2 of the accident prevention regulations [UVV V A1], general regulations), have to be shut down.

The following must be obtained in a timely manner: required official authorizations including extensions thereof and expert opinions (e.g. for working with ionizing radiation, infectious or genetically modified organisms) that are necessary for operating facilities, equipment, substances or working procedures that require approval or mandatory monitoring. The responsible coordinators have to be informed about changes and it must be ensured that the requirements stipulated by the authorities are fulfilled in a timely manner.

Emergency planning must be organized in accordance with existing regulations for responding to accidents involving people, fires, explosions etc..

In particular in the scientific/technical areas: a safety representative, who supports the responsible persons on site in matters of occupational safety, has to be appointed. In the remaining areas, safety representatives who are responsible across several working groups can be appointed.

An essential aspect of performing this responsibility is familiarizing oneself with the key occupational safety and environmental protection regulations in one’s own management area, indicating to staff the need for compliance, and ensuring they are adhered to.

1.3. Conferring duties within larger institutions

The responsible persons designated under point 1.1 can confer the tasks assigned to them to one or several suitable staff members who are responsible for a certain area of work. Their proximity to the subject area will help ensure that responsibility is taken on accordingly also in larger institutions.

The appointed persons are to be selected carefully based on professional and personal qualifications and are to receive instructions.

Responsibility must be conferred in written form and include a clear description of the sphere of duty of the employee in question, and the authority associated with the conferral of duties (disposal of means and determining of decision-making areas) for performing remedial measures.

A further conferring of responsibility by the staff member to another person is not permitted.

The management responsibility (monitoring duty) of the person conferring the responsibility is unaffected.
2. Central organization of occupational health, safety and environmental protection at the University of Konstanz

The Rectorate, in its capacity as governing body of the university, is responsible for the organization on a central level. According to the organizational structure, the Kanzler is in charge of administering financial and human resources and thus implementing the details of the statutory provisions of occupational health, safety and environmental protection. He/she is responsible for the required organizational, monitoring and review measures, insofar as they are on the central level.

The organizational structure is derived from the organization chart of the “Rectorate and university administration” The Kanzler is supported in performing these tasks by the “Occupational Safety, Health and Waste Disposal” staff unit. The head of this staff unit is the occupational safety coordinator. The coordinator is the interface between the Rectorate and those responsible in the areas of occupational health, safety and environmental protection.

He/she is in charge of organizational development regarding the structural and workflow organization and coordination of the tasks performed by “appointed persons”. He/she draws up decision papers for the Rectorate or the Kanzler in close collaboration with the appointed individuals. Organizational responsibility is not assumed by the occupational safety coordinator; it remains in the Rectorate with the Kanzler. The lead safety engineer’s right to report directly to the Rectorate/Kanzler is unaffected.

The appointed office-holders in the staff unit perform these tasks on a central level in accordance with the statutory provisions and organizational decisions. This includes in particular advising and supporting the Rectorate and all other individuals that are mandated to conduct responsibilities and tasks in the area of occupational health and safety.

Comprehensive information and tools are provided on the AGU (Occupational Safety, Health and Waste Disposal) websites. These concern the general legal principles, as well as templates and forms specifically designed for the University of Konstanz. The appointed individuals in the staff unit and in the university administration are also available to provide further clarification and information and to support and advise those responsible.

3. Responsibilities of the “appointed persons”

The responsibilities of the following individuals that are appointed within the framework of the statutory provisions remain unaffected, e.g. in-house physician, safety engineer, laser safety representative, radiation safety officer, radiation safety representative, biological safety representative, waste management representative, dangerous goods representative, emissions protection representative. They rely on involving users and gaining information from them to perform their tasks, except in cases where they are solely responsible for these tasks. The responsible persons (see 1.1) are to involve the appointed persons fully and on their own accord, also in the case of changes to existing facilities, in order to meet existing reporting and approval obligations if required.
4. Staff rights and duties

All employees are entitled to put forward proposals on any occupational health and safety issue. They are obliged to act as carefully as possible, as well as in accordance with the instructions and guidelines for occupational health and safety. Employees are to use the following items as intended and according to the instructions: machines, equipment, tools, substances, means of transport and other working materials, as well as personal protective equipment they are provided with.

Staff are to report every significant threat to health and safety they discover to the university, or to their manager without delay, as well as every other defect found in other protective facilities/equipment and to support the university in guaranteeing the occupational health and safety of staff, and meeting the requirements set by the authorities and thus the obligations of the university. (see §§ 15-17 of the occupational safety law "Arbeitsschutzgesetz").

5. Coming into effect

This General Administrative Regulation shall come into effect on 1 August 2013. It replaces the "General Administrative Regulation of the University of Konstanz on Responsibility for Occupational Health, Safety and Environmental Protection" dated 24 March 2004.

Konstanz, 30 July 2013

signed

Prof. Dr. Dr. h.c. Ulrich Rüdiger
Rector