

ANTI-DISCRIMINATION REGULATIONS OF 17 NOVEMBER 2021

Legal Notice: This is a translation of the original document, entitled "Reglement zum Schutz vor Diskriminierung (Diskriminierungsschutzreglement)" and issued in German. Under applicable law, solely the German version shall be deemed binding.

The Board of Zurich University of the Arts (ZHdK) hereby decrees:

A. General Provisions

§ 1 Purpose

¹ The purpose of these Regulations is to protect all members of Zurich University of the Arts (ZHdK) against discrimination of any kind and, in so doing, to protect their personality, dignity and integrity.

² These Regulations set out the responsibilities and proceedings to be adhered to in the event of discrimination.

§ 2 Scope

These Regulations apply to all members of ZHdK.

§ 3 Basic Principle

¹ ZHdK does not tolerate discrimination in any shape or form.

² Members of ZHdK shall behave considerately towards each other and shall respect the personal rights of others. They shall contribute to ensuring that ZHdK is an environment free from discrimination.

B. Terms

§ 4 Discrimination

¹ Discrimination constitutes any statement or action that is intended to disparage, discriminate against or treat unequally, without any objective grounds, any person, in particular based on their origin, religion, physical or mental features, world view, sexual orientation or gender.

² Discriminatory behaviour includes in particular sexual harassment, sexist behaviour, bullying, racism, racist behaviour and the abuse of power.

§ 5 Persons Involved

¹ The person affected is that person who feels discriminated against or is affected by discrimination.

² The person who witnesses discrimination is that person who either observes or suspects that another person is affected by discrimination.

³ The accused is that person who is accused of discrimination.

⁴ The following bodies shall serve as contacts should discrimination occur:

- a) Internal trusted contacts
- b) Equal Opportunities & Diversity Office
- c) External trusted contact
- d) HRM advisor

⁵ The term "lecturer" includes professors as well as teaching and research staff.

§ 6 Serious Cases

Serious cases of discrimination include, in particular, having knowledge or reasonable suspicion of behaviour that

a) may be relevant under criminal law, in particular where minors (i.e. persons under age) are affected, or

b) is grossly discriminatory. This may be the case in particular if the accused repeats their discriminatory behaviour or is accused of wrongdoing by two or more persons.

§ 7 Sexual Harassment

¹ Sexual harassment is any act of a sexual nature that is unwanted by the person affected.

² This includes in particular:

- a) sexual acts and behaviour that are punishable by law,
- b) unsolicited advances that either promise the person affected an advantage or threaten to cause them a disadvantage if they fail to comply
- c) unwanted physical contact, requests to engage in sexual acts, transgressive behaviour,
- d) suggestive remarks or jokes, in particular about a person's appearance and physical features,
- e) showing and distributing pornographic material. The provisions of federal law remain reserved, in particular those relating to objects or performances whose cultural value makes them worthy of protection.

§ 8 Sexist Behaviour

¹ Sexist behaviour is any behaviour that discriminates against a person based on their gender.

² This includes in particular:

- a) discriminatory statements or actions relating to the members of one sex,
- b) behaviour and statements that create a hostile atmosphere for members of one sex.

§ 9 Bullying

¹ Bullying involves systematically discriminating against or harassing other persons, either persistently or repeatedly over a long period of time.

² This includes in particular:

- a) hostile behaviour such as humiliation, insinuations, threats or harassment,
- b) personal or factual exclusion such as isolation, exclusion from social occasions, events or information.

C. Measures

§ 10 ZHdK

¹ ZHdK shall take measures against persons who are found to have discriminated against others.

² ZHdK shall take measures independently of any civil or criminal proceedings.

³ Measures shall be based in particular on the provisions of applicable Personnel Law and the University's Disciplinary Code. Measures range from support and organizational measures to dismissal from employment or expulsion from degree studies.

⁴ Paragraphs 1–3 shall apply *mutatis mutandis* to persons who, against their better knowledge, accuse another person of discriminatory behaviour under these Regulations or who spread such suspicion against their better knowledge.

§ 11 Superiors and Lecturers

¹ Superiors or lecturers who become aware of behaviour that may conflict with or violate these Regulations shall, if necessary, take immediate provisional measures in order to protect the persons affected.

² They shall draw the attention of the person affected, the witness and the accused to these Regulations.

³ Should they establish that discrimination has occurred, they shall take measures within their authority, in particular to remedy the circumstances and to ensure that the discriminatory behaviour does not recur.

⁴ They may seek advice from the contact persons mentioned in these Regulations.

§ 12 No Person Shall Suffer a Disadvantage

Neither those affected by discrimination nor those witnessing such behaviour shall suffer further disadvantages.

D. Contact Persons

§ 13 General

¹ Contact persons shall advise and support the person affected or the witness as well as superiors and lecturers.

² They shall inform the University President and the Head of the Equal Opportunities & Diversity Office in accordance with § 32 and 33 (Information on Serious Cases and Further Information).

³ They shall recuse themselves if they appear to be biased in the matter or if they can no longer be expected to deal with the matter with the necessary confidentiality. § 5a of the Administrative Jurisdiction Act¹ on recusal shall apply *mutatis mutandis*. This paragraph shall also apply to all persons involved, in particular the University President.

§ 14 Internal Trusted Contacts

¹ Internal trusted contacts shall perform their duties independently of their superiors and shall report to the Head of the Equal Opportunities & Diversity Office.

² They shall advise and support the person affected or the witness during the initial discussion and during the transition to mediation or to approaching the accused directly (§ 17 and 18). The duties of internal trusted contacts ends with the commencement of the latter measures.

§ 15 External Trusted Contact

¹ The external trusted contact shall perform their duties and responsibilities independently of ZHdK and as mandated.

² The first four hours of consultation with the external trusted contact are free of charge for all members of ZHdK. The Equal Opportunities & Diversity Office decides whether ZHdK will cover the costs of further services.

³ As a rule, the external trusted contact conducts the clarification process in accordance with § 21–24.

E. Proceedings

§ 16 Initiation

An affected person or a witness who cannot or does not want to approach the accused directly or who has done so yet without a satisfactory outcome may contact an internal trusted contact or another contact person.

§ 17 Initial Discussion

¹ The contact person shall conduct an initial discussion with the person affected or with the witness.

² The initial discussion is confidential. Without the consent of the person affected or the witness, the contact person may not disclose any information from the initial discussion to a third party. Nor may they take any further measures or conduct any further discussions. Anonymized Information remains reserved in accordance with § 32 and 33.

³ The contact person shall inform the person affected or the witness about these Regulations.

⁴ The person affected may attend the discussion accompanied by a person of their choice.

⁵ The most important points of the initial discussion shall be recorded in writing.

⁶ By mutual consent, further discussions may follow during the initial stages of seeking resolution.

¹ LS 175.2.

§ 18 Decision on the Continuation of Proceedings

¹ After the initial discussion, a specified time for consideration or further discussions, the person affected or the witness shall decide whether the case should be closed or whether proceedings should be continued in accordance with § 19 or 20.

² The continuation of proceedings requires the written consent of the person affected or the witness. Reference must be made to these Regulations, in particular to § 32 and 33 (Information on Serious Cases and Further Information).

§ 19 Mediation: Continuation of Proceedings by the Person Affected

¹ If the person affected wishes to continue proceedings in accordance with § 18 para. 2, mediation shall be initiated.

² Upon consultation with the contact person, the Equal Opportunities & Diversity Office shall decide who shall conduct the mediation. As a rule, a contact person who did not conduct the initial discussion will be assigned as a mediator. Internal trusted contacts cannot be appointed as mediators.

³ Participation in mediation is voluntary.

⁴ The contact person responsible for mediation may first hold separate meetings with parties.

⁵ If the contact person considers mediation to be possible, they shall convene a joint meeting with the person affected and the accused.

⁶ The contact person may involve the superior or the head of programme of the person affected or the accused.

⁷ If mediation is successful, the contact person shall place on record that the case is closed.

⁸ If mediation has failed or is declined, the contact person shall request the University President to initiate a clarification process.

⁹ In non-serious cases (§ 6), the contact person may waive this request. If the person affected or the accused does not agree with the waiver, the University President shall decide.

¹⁰ The most important points of the mediation shall be recorded in writing.

§ 20 Direct Approach: Continuation of Proceedings by the Witness

¹ If the witness decides to continue proceedings in accordance with § 18 par. 2, the accused shall be approached directly.

² If the person affected declines further involvement, the case will be closed. The University President reserves the right to decide otherwise, in particular in serious cases (§ 21 para. 2 – clarification process –, 25 para. 2 – administrative inquiry – and 32).

³ In all other respects, § 19 shall apply *mutatis mutandis*.

F. Clarification Process

§ 21 Initiation

¹ The University President shall decide whether to initiate a clarification process upon request and in accordance with § 19 Para. 8.

² She or he may initiate a clarification process of his or her own accord at any time, in particular in serious cases (§ 6).

§ 22 External Trusted Contact

¹ The external trusted contact shall conduct the clarification process.

² The University President may appoint one or more other persons, in particular if no external trusted contact is able to conduct the clarification process in accordance with § 13 Para. 3.

§ 23 Execution

¹ The external trusted contact shall conduct proceedings in compliance with the applicable procedural rights (§ 29).

² The external trusted contact may request the University President to involve experts.

³ Participation in proceedings is compulsory.

⁴ Proceedings shall be recorded in writing.

§ 24 Closure

¹ The external trusted contact shall submit a report to the University President containing the proposed measures (§ 10) or to request an administrative inquiry.

² Proceedings shall be concluded with the decision of the University President.

G. Administrative Inquiry

§ 25 Initiation

¹ The University President shall decide whether an administrative inquiry should be initiated upon request and in accordance with § 24 para. 1.

² She or he may initiate an administrative inquiry of her or his own accord at any time, in particular in serious cases (§ 6).

§ 26 Persons Commissioned

¹ An administrative inquiry shall be conducted by an expert, who shall not be a member of ZHdK, or by a committee specially appointed by the University Board.

² The Equal Opportunities & Diversity Office is entitled to make proposals for the appointment of the expert or committee.

§ 27 Execution and Closure

§ 23 and 24 and § 44a of the Act on the Organization of the Cantonal Council and the Cantonal Administration shall apply *mutatis mutandis* to administrative inquiries.

H. Procedural Provisions

§ 28 Proceedings

Unless these Regulations contain provisions to the contrary, mediation, a direct approach, the clarification process, an administrative inquiry and the rights of the parties involved shall be governed *mutatis mutandis* by the provisions of the Administrative Jurisdiction Act.²

§ 29 Procedural Rights

¹ The person affected and the accused have the right to be heard.

² In particular, they have the right:

- a) to be accompanied by a person of their own choice,
- b) to be present at the questioning of respondents, experts, the person affected, the witness or the accused. § 19 para. 4 remains reserved,
- c) to comment on statements made by respondents, the person affected or the accused,
- d) to inspect case documents and files and to comment on them after inquiries have been completed.

³ If the overriding interests of ZHdK, the person affected or third parties so require, the right to be heard and to inspect case documents and files may be restricted. In particular, the person affected may, at their request, be questioned in the absence of the accused.

§ 30 Duration of Proceedings

Proceedings must be concluded as swiftly as possible, as a rule within four (4) months of commencement at the latest.

² LS 175.2.

I. Duty of Confidentiality

§ 31 Basic Principle

The contact persons and all persons involved are bound by their duty of confidentiality. § 32 and 33 remain reserved.

§ 32 Information on Serious Cases

¹ The University President must be informed at all times of serious cases (§ 6) by the contact persons, superiors, lecturers as well as by persons tasked with conducting a clarification process or an administrative inquiry. However, she or he shall only receive anonymized information about the initial discussion (§ 17) unless the person affected or the witness consents to non-anonymous information being disclosed.

² She or he shall take the necessary measures irrespective of the stage of proceedings.

³ In serious cases, she or he may in particular inform the University's Head of Operations, Equal Opportunities & Diversity Office, Legal Services, Human Resources Management and Security Officer. She or he may also inform the head of department and the superiors or head of programme of the person affected or the accused.

⁴ In serious cases, the University President may release persons from their duty of confidentiality.

§ 33 Further Information

¹ The contact person may disclose information about an initial discussion (§ 17) in anonymized form to other contact persons for counselling purposes.

² For statistical purposes, the contact person shall inform the Equal Opportunities & Diversity Office in anonymized form about the general points covered in the initial discussion.

³ Prior to mediation, a direct approach, a clarification process and an administrative inquiry, the most important points shall be forwarded in non-anonymized form to the Equal Opportunities & Diversity Unit and to the superiors or the head of the degree programme of the person affected or the accused.

⁴ Measures adopted pursuant to § 10 and 11 shall be forwarded to the Head of Operations, the Equal Opportunities & Diversity Office, the Head of Human Resources Management as well as to the head of department and the superiors or the head of the degree programme of the person affected or the accused.

J. Final Provision

§ 34 Enactment

These Regulations shall enter into force on 1 January 2022.

§ 35 Repeal of Previous Legislation

These Regulations replace the Anti-Discrimination Regulations of 18 February 2009.

§ 36 Transitional Provision

Proceedings pending at the time when these Regulations entered into force shall be governed by previous legislation.

The University President

Thomas D. Meier