

## **Regulations on the Protection against Discrimination, Sexual Harassment and Bullying**

The Executive Board of the ZHAW determines, based on:

§ 9 of the personnel ordinance of the Zurich Universities of Applied Sciences and Arts (PVF) dated 16 July 2008 (LS 441.112)

§ 8, para. (d) of the ordinance on the law governing the Zurich Universities of Applied Sciences and Arts (FHV) dated 8 April 2009 (LS 414.101)

### **1. General**

#### **1.1 Purpose**

The purpose of these regulations is to protect members of the ZHAW community against discrimination of any kind, sexual harassment and bullying, and thus safeguard their personal rights, dignity and integrity. They are grounded in the principle that members of the ZHAW community should not be hindered in achieving genuine equality in the workplace or in their studies nor should they be adversely affected in their professional or academic careers.

These regulations also stipulate the different responsibilities and procedures in the event of possible violations of discrimination, sexual harassment or bullying.

#### **1.2 Applicability**

These regulations apply to all ZHAW staff, students and course auditors as well as participants in continuing education courses in connection with all their university-related activities.

### **2. Terms**

#### **Discrimination**

Discrimination is deemed to be any statement or action that, without any objective reason, is intended to put at a disadvantage, treat unequally or reduce the value of a person on the basis of their sex, age, ethnicity, religion or belief, physical or mental characteristics, or sexual orientation.

#### **Sexual harassment**

Sexual harassment is deemed to be unwelcome behaviour involving a sexual reference or of a sexist nature.

In particular, this includes:

- a) unlawful sexual acts and behaviour
- b) sexual advances accompanied by promises of rewards or threats of disadvantages
- c) unwelcome physical contact, requests for sexual favours or intrusive behaviour
- d) salacious remarks or jokes, particularly relating to appearance or physical characteristics
- e) showing and/or distributing pornographic material
- f) insulting or disparaging remarks or actions of a verbal or visual nature relating to a particular gender
- g) behaviour that creates a hostile environment for individuals of a particular gender.



## **Bullying**

The term 'bullying' is often used in the context of conflicts or disputes. It is understood as the repeated and systematic harassment, intimidation, devaluation and/or exclusion of a person or group at the workplace over an extended period of time, including:

- a) hostile behaviour directed against people, such as humiliation, insinuations, threats or harassment between staff of the same or different hierarchical levels
- b) personal or material exclusion, such as isolation.

## **3. Duties of the university**

The ZHAW does not tolerate discrimination, sexual harassment or bullying of any kind. It actively works towards creating a work and study atmosphere that counteracts these unwelcome behaviour patterns. In the event of a violation, the ZHAW guarantees a fair process. The duty of care is guaranteed for both the accused person and the person making the accusations.

## **4. Duties of university community members**

The groups of people mentioned in para. 1.2 above are to show consideration towards each other and respect the personal boundaries of others. They are to contribute to an environment that is free of discrimination and harassment.

Anyone who is subjected to discrimination, sexual harassment or bullying should make reasonable efforts to make it explicitly clear to the offending party that they feel harassed or discriminated against by this behaviour and that it is unwanted.

ZHAW community members who become aware of harassment or discrimination in connection with a university-related activity are required, within reasonable limits, to draw attention to the unacceptability of such behaviour.

Senior management and line managers are, within their area of competence, responsible for ensuring a workplace environment that is free of discrimination and harassment. They are required to take corrective action in the event that they discover any behaviour that contravenes these regulations.

## **5. Contact persons**

Contact persons support and advise those affected by discrimination, sexual harassment and bullying as well as anyone else involved. Contact persons can include line managers, study advisers, programme directors, HR specialists or the relevant ZHAW counselling centres.

If contact persons become aware of an incident involving discrimination, sexual harassment or bullying, they are to clarify the circumstances to the extent possible to ensure that the personal rights of those involved are respected.

They support those involved and draw their attention to the different possible procedures in accordance with these regulations.

Further action must be taken in consultation with those directly concerned.

## **6. Rights of those directly concerned**

Any individual who feels harassed, discriminated against or subjected to bullying:

- a) is entitled to receive advice and support from the ZHAW advisory services
- b) can request investigation proceedings.

### **6.1 Central contact point for issues concerning discrimination, sexual harassment and bullying**

The Diversity Unit is the ZHAW central contact point that protects all persons mentioned in para. 1.2 from discrimination, sexual harassment and bullying and provides them with advice.

The Diversity Unit is responsible for the following:

- a) It advises and supports those seeking advice and their contact persons in matters relating to discrimination, sexual harassment and bullying and provides appropriate training.
- b) It can be asked to mediate discussions within the ZHAW.
- c) It arranges psychological or psychiatric counselling at the request of the person concerned.
- d) It refers the matter to the President, depending on the severity of the case.
- e) It prepares an annual written report for the Executive Board.

All persons mentioned in para. 1.2 can contact the Diversity Unit directly.

The Diversity Unit can contact ZHAW Legal Services for advice.

ZHAW staff can also directly contact the independent mediator. In this case, the provisions set out in the regulations on independent mediation (Z-RE-Unabhängige Ansprechstelle, in German only) apply.

## **7. Measures**

### **7.1 General**

The ZHAW takes measures against people who engage in discrimination, sexual harassment or bullying.

The measures are undertaken in accordance with the provisions applicable to the legal relationship between the accused person and the ZHAW. These range from supportive measures through to dismissal or ex-matriculation, and they are taken independently of possible criminal proceedings.

In the event that a person chooses to falsely or frivolously accuse another individual of improper conduct pursuant to these regulations, then the above measures shall apply to the wrongful accuser.

### **7.2 Investigation proceedings**

The ZHAW can carry out an investigation on its own initiative or on request if there is a suspicion of a violation of these regulations.

The President decides whether to initiate proceedings and designates the investigating body.

The investigating body should have extensive knowledge in the areas under investigation.

The investigating body is charged with establishing the facts and conducting the investigation proceedings.

It can submit an application to the President:

- a) to consult experts
- b) to order measures in accordance with the second paragraph in para. 8.1.

The investigation proceedings are concluded with the decision of the President as regards issuing measures in accordance with the second paragraph in para. 8.1.

## **8. Provisions governing the investigation proceedings**

### **8.1 General**

Provided that these regulations do not contain provisions to the contrary, the proceedings and the rights of all those involved shall be governed analogous to the provisions laid down in the law on administrative procedures and jurisdiction of the Canton of Zurich.

### **8.2 Rights of the persons involved**

The persons involved are entitled to have a person accompany them during the investigation proceedings and, upon completion of the investigation proceedings, to have access to the records and respond to the statements contained in them.

In addition, those involved directly (the accuser and the accused) are entitled to:

- a) be present during the questioning of declarants, experts, the accuser and the accused, and
- b) respond to the comments made by respondents, the accuser and the accused.

If the overriding interests on the part of the ZHAW, a person concerned or a third party so require, the investigating body can, to the extent permitted under the law, restrict the right to be heard or to access the records. In particular, the person concerned can on his or her request be questioned in the absence of the accused.

### **8.3 Ban on further discrimination**

The persons concerned may not be subjected to any further discrimination as a result of the discrimination, sexual harassment or bullying proceedings.

The above paragraph applies by analogy to all persons who perform tasks, assume functions, request or decide measures or are in any other way involved in the proceedings pursuant to these regulations.

### **8.4 Obligation of confidentiality**

All persons involved in the proceedings are bound by an obligation of confidentiality. In particularly serious cases, these persons can on their own request be released from this confidentiality obligation. The competent body in this respect is the President.

### **8.5 Costs**

The proceedings are free of charge for the persons involved, with the exception of cases of vexatious litigation.

The President can in certain cases reimburse the individual or the wrongly accused person for any costs arising from the proceedings.

## 8.6 Communication

On the request of and in consultation with the individual concerned or the wrongly accused person, others in their respective work or study environments can be informed of the outcome of the proceedings.

The personal rights and other interests worthy of protection of all those involved must be safeguarded in the best possible manner in any communication about the proceedings.

## 9. Final provisions and annex

These regulations shall enter into force on 01/05/2019 and shall remain in force until revoked by the issuing authority or its superior. They replace the discrimination regulations of 5 March 2009.

## 10. Disclaimer

This is a non-binding, unofficial translation of the original German version, "[Z-RE-Reglement Diskriminierung](#)". While it was prepared with all due care, the Zurich University of Applied Sciences takes no responsibility for any remaining omissions and/or errors. The legally binding document is the original German version, which shall prevail in any case of doubt or differences of interpretation.

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## 11. Regulation documentation

### 11.1 Regulation metadata

Concerning	Details
issued by	Head of Diversity Unit
decided by	HSL
archived in	1.04.01 Guiding documents
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### 11.2 Regulation version history (optional for non-legally binding regulations)

Version	Decided on	Decided by	Validity	Description of change
1.0.0	05/03/2009	HSL	01/04/2009	Original version
1.0.1	-	-	-	Formal and editorial corrections, conversion to BPM archive 31/08/2013
2.0.0	28/03/2019	HSL	01/05/2019	Comprehensive revision