



# **Guidelines of the University of Stuttgart on Handling Incidents of Discrimination, Sexual Harassment and Sexual Violence**

**of October 25, 2022**

**On the basis of section 4a subsection 1 sentence 3 and subsection 2 sentence 3 as well as section 16 subsection 3 sentence 1 of the act on the higher education institutions in the Land of Baden-Württemberg (*Landeshochschulgesetz, LHG*) of 1 January 2005 (Law Gazette (GBl.) p. 1), last amended by Article 1 LHG of 26 October 2021 (GBl. p. 941), the Rectorate on October 25, 2022 passed the following guidelines on handling incidents of discrimination, sexual harassment and sexual violence.**

## **Introduction**

The University of Stuttgart promotes equal opportunities for women and men and takes the diversity of its members and affiliates into account when fulfilling its tasks. In particular, the university ensures that all members and affiliates can participate equally in research, teaching, studying and continuing education in the scope of their tasks, rights and duties within the higher education institution, irrespective of their status, origin, ethnicity, gender, age, sexual orientation, health, religion or beliefs.

The university is committed to protecting the personal rights of its members and affiliates, which includes protection against any form of discrimination, sexual harassment and sexual violence. Discrimination of any kind may not only severely affect individuals in their performance and free development, but can also cause serious mental and physical health issues. Discrimination of any kind violates both the law and the University of Stuttgart's Code of Conduct, which lays the groundwork for mutual respect between its members and affiliates.

The University of Stuttgart assumes the responsibility it has in creating an environment in which everyone can move safely and treats each other with dignity and respect. With the measures listed below, the university commits to taking action against any incident of discrimination, sexual harassment or sexual violence, to listen to each individual affected, and to advise and protect them from further discrimination.

These guidelines were written to explain the different forms of discrimination, to illustrate the most important steps to take for individuals who have experienced discrimination and those who are indirectly affected as a witness or person in contact with the victim, but also for

superiors and contact persons, and to determine a mandatory procedure for any incidents of discrimination, sexual harassment or sexual violence.

## **1. What is discrimination?**

Discrimination means disadvantaging people on the basis of a legally protected characteristic without justified grounds. They are disadvantaged due to their race<sup>1</sup>, ethnicity, gender, religion or beliefs, disability, age or sexual identity (cf. section 1 of the General Act on Equal Treatment, AGG).

There are different forms of discrimination:

- direct discrimination
- indirect discrimination
- (sexual) harassment and violence (further definition under no. 2)
- instruction to discriminate against someone
- multiple discrimination

Discrimination on the basis of one of the characteristics specified above may also occur in the form of bullying, threats or violence.

Discrimination may occur while interacting with someone in person but also by any form of virtual communication. The latter includes hate speech and online stalking in video or audio conferences, on learning platforms, or on social media.

## **2. Sexual harassment and sexual violence**

Sexual harassment and sexual violence are forms of discrimination and may be manifested in different ways. Generally, however, it always constitutes behavior of a sexual nature that is perceived as molesting and unwelcome.

Sexual harassment differs from harmless ways of making contact or flirting in that these forms of advances do not make the individuals involved feel uncomfortable. Sexual harassment means that the advance is completely one-sided, is unwanted by the person harassed, and is perceived by the latter as humiliating and degrading.

Examples of sexual harassment may include

- sexist jokes,
- intrusive, suggestive or degrading questions or comments about someone's personal or intimate life,
- leering, unwelcome physical contact or other sexualized non-verbal actions as well as gestures or self-touching,
- display and distribution of pornographic material,
- unwelcome gifts, constant unwelcome contacting, ambushing, and/or unwelcome invitations with obvious intentions,
- abuse of a position of power or advances where the person harassed is promised benefits or threatened with disadvantages,
- stalking,
- sexual assault, sexual coercion, or rape.

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<sup>1</sup> The term 'race', although critically debated, is used in these guidelines as it is still used both in the Basic Law for the Federal Republic of Germany and the General Act on Equal Treatment (AGG).

Women, men and non-binary people alike may all be victims of sexual harassment. Every person, regardless of gender, may therefore turn to the respective contact persons or counseling services to receive support and advice.<sup>2</sup>

### **3. Handling incidents of discrimination, sexual harassment or sexual violence**

Individuals affected by discriminatory behavior, sexual harassment or sexual violence should defend themselves as best as possible. Besides directly confronting the person harassing them, they should turn to the contact persons and counseling services at the university so that the necessary measures can be taken. All contact persons and counseling services are obliged to treat any information they are entrusted with confidentially.

The university also provides an electronic complaints portal that allows university members to place an anonymous complaint.

People who have witnessed incidents of discrimination, sexual harassment or sexual violence should listen to the person affected, offer their support, and encourage them to take action and turn to the designated contact person at the university. Witnesses or people in contact with the victims can also report incidents to the contact persons themselves. However, further steps should only be taken if the person affected agrees to this and/or their identity remains anonymous.

After an initial confidential conversation, different forms of action may be taken.

### **4. Informal measures and/or formal procedure**

Individuals affected have the right to make a written or oral complaint with one of the contact persons. The questionnaire online<sup>3</sup> may serve as a basis for outlining the incident clearly.

The contact person will then try to establish the details of what happened. To this end, they will sit down with the person affected (who may be accompanied by a person of their trust), listen to their version of events, and advise them on which protective measures to take and which other forms of action might be possible. The contact person will assess the seriousness of the accusations and the incident, and, in agreement with the person making the complaint, decide on whether to first take less severe, informal steps or to initiate a formal procedure right away.

The less severe, informal steps include actions where the identity of the person affected remains anonymous (conversation between the contact person and the person accused), a conversation between the person affected and the person accused in presence of the contact person, or involving the superior(s) of the person affected or the person accused.

In addition, the contact person will examine whether further steps need to be taken by the entities responsible at the university within the scope of a formal procedure.

A formal procedure needs to be initiated if the severeness of the accusations or the incident make this necessary and all circumstances of the case have been carefully considered, including the interests of the person affected and, where appropriate, those of the university.

A formal procedure is legally required for all incidents falling under criminal law, such as stalking, physical assault, or rape.

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<sup>2</sup> <https://www.uni-stuttgart.de/en/university/profile/equality-diversity/anti-discrimination/>

<sup>3</sup> <https://www.uni-stuttgart.de/universitaet/profil/chancengleichheit/antidiskriminierung/#id-88bc7d96>

Anything that is said during conversations in which the designated contact person of the university takes part following a prior complaint must be documented.

If, in agreement with the person making the complaint, the contact person comes to the conclusion that further steps and measures need to be taken by way of a formal procedure, the contact person will delegate the procedure to the entity responsible within the Central Administration by way of a written notification from the Rectorate.

The person accused of misconduct is then given the opportunity to make a statement on their version of events in the further course of the procedure.

The person accused is presumed innocent throughout the entire procedure until definitively proven guilty. They must also be guaranteed their rights to defend themselves.

#### **5. Official contact persons at the university for incidents of discrimination on grounds of race, ethnicity, religion or other beliefs, as well as for incidents of sexual harassment**

The University of Stuttgart appoints both a female and a male contact person for cases of sexual harassment as well as an anti-discrimination officer, who is in particular in charge of handling incidents of discrimination based on racist or ethnic grounds or religion and other beliefs. In this capacity, the individuals appointed are not bound by any instructions. The term of office is two years, respectively.

If a case comes to their attention, the contact persons will initiate the procedure described above if deemed appropriate after carefully considering all circumstances of the case, especially the interests of the person affected. Personal data that the contact persons process within the scope of their responsibilities may only be passed on and transmitted to other parties within and outside the university if the person affected agrees to this or it is necessary to fulfill a legal obligation (cf. section 12 subsection 4 sentence 3 LHG).

#### **6. Other official contact persons at the university**

For other incidents of discrimination, you may also turn to the following contact persons and officers: <https://www.uni-stuttgart.de/en/university/profile/diversity/anti-discrimination/>.

#### **7. Responsibility of superiors and teaching staff**

All university members entrusted with educational, qualification and managerial tasks in the areas of teaching, research, training, administration, and self-governance have a duty of care and are therefore obliged to inform the Rectorate and the designated contact persons at the university immediately if they become aware of incidents of serious discrimination, sexual harassment or sexual violence occurring within their area of responsibility.

Should the person who experienced discrimination or harassment not want the case to be investigated any further, the parties mentioned above must be informed, without disclosing any names, that an incident occurred and that the person affected wishes no further investigation. Reports by third parties about incidents of serious discrimination, sexual harassment or sexual violence as well as all steps and measures taken and conversations held afterwards must be documented by the official contact person.

In order to avoid future cases of discrimination of any kind, all university members, especially those with leadership responsibilities, should avail themselves of further education offered on the subject matter and use the resources available (guidelines on handling incidents of

discrimination for persons affected, those in contact with them and superiors; guidelines on gender-sensitive language; manuals on digital accessibility, etc.).

## **8. Consequences for individuals who have discriminated against or harassed someone**

After investigating the accusations against the individuals accused of discrimination or harassment, the university entities responsible will initiate further measures in a formal procedure where appropriate.

If the person accused is a student, a disciplinary committee in accordance with section 62 a subsection 3 LHG, whose members must include at least one student of the university with voting rights, will decide on any disciplinary action to be taken.

Depending on the relevant provisions as well as the person's legal position at the university, the following measures and penalties in particular may be imposed for less severe cases:

- oral or written reprimand
- formal conversation

If the person affected does not wish a formal procedure, they can choose to not participate in it or to be represented by a third party.

Generally, a formal procedure must neither cause disadvantages for the person who experienced discrimination or harassment nor for the superior or teacher bringing the complaint. The same applies for witnesses.

In addition, insofar as this is necessary, protective measures will be taken in order to protect the person who has experienced discrimination or sexual harassment or violence as well as any witnesses. This includes ensuring that they and the offender are not present at the same place at the same time.

The Rectorate will ensure that the necessary measures and penalties against the person guilty of discrimination or harassment are taken and implemented.

Depending on the relevant provisions as well as the person's position at the university, the person guilty of discrimination or harassment must expect the following measures and consequences:

❖ **Civil servants** guilty of serious discrimination, sexual harassment or sexual violence have committed a breach of duty. In order to clarify the facts and determine further steps, the university will initiate a disciplinary procedure, which may result in one or several of the following measures:

- reprimand
- fine
- reduction of salary
- dismissal from service
- reduction or deprivation of pension

❖ **Employees** face measures or penalties under German labor law:

- reprimand (*Ermahnung*)
- formal warning (*Abmahnung*)
- relocation
- transfer
- termination of employment

❖ **Students** may face the following measures:

- suspension from individual courses (up to one semester)
- ban from using university units and services
- revocation of right to use IT services
- ban from entering the university premises
- warning of expulsion (disenrollment)
- expulsion (disenrollment)

❖ **Pressing charges**

Irrespective of the right of the person affected to press charges against the offender, the university may also do so.

## 9. **Entry into force**

These guidelines take effect on the day after their publication in the Bulletin of the University of Stuttgart (*Amtliche Bekanntmachungen der Universität Stuttgart*).

Stuttgart, October 25, 2022

Univ.-Prof. Dr.-Ing. Wolfram Ressel  
Rector

## **Annex: Legal Regulations (Excerpts)**

### **Basic Law for the Federal Republic of Germany**

#### **Article 1**

(1) Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority.

[...]

#### **Article 2**

(1) Every person shall have the right to free development of his personality insofar as he does not violate the rights of others or offend against the constitutional order or the moral law.

(2) Every person shall have the right to life and physical integrity. Freedom of the person shall be inviolable. These rights may be interfered with only pursuant to a law.

#### **Article 3**

(1) All persons shall be equal before the law.

(2) Men and women shall have equal rights. The state shall promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist.

(3) No person shall be favoured or disfavoured because of sex, parentage, race, language, homeland and origin, faith or religious or political opinions. No person shall be disfavoured because of disability.

### **General Act on Equal Treatment (AGG)**

#### **Section 3 Definitions**

(1) Direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on any of the grounds referred to under Section 1. Direct discrimination on grounds of sex shall also be taken to occur in relation to Section 2(1) Nos 1 to 4 in the event of the less favourable treatment of a woman on account of pregnancy or maternity.

(2) Indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons at a particular disadvantage compared with other persons on any of the grounds referred to under Section 1, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

(3) Harassment shall be deemed to be discrimination when an unwanted conduct in connection with any of the grounds referred to under Section 1 takes place with the purpose or effect of violating the dignity of the person concerned and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

(4) Sexual harassment shall be deemed to be discrimination in relation to Section 2(1) Nos 1 to 4, when an unwanted conduct of a sexual nature, including unwanted sexual acts and requests to carry out sexual acts, physical contact of a sexual nature, comments of a sexual nature, as well as the unwanted showing or public exhibition of pornographic images, takes place with the purpose or effect of violating the dignity of the person concerned, in particular where it creates an intimidating, hostile, degrading, humiliating or offensive environment.

(5) An instruction to discriminate against a person on any of the grounds referred to under Section 1 shall be deemed as discrimination. Such an instruction shall in particular be taken to occur in relation to Section 2(1) Nos 1 to 4 where a person instructs an employee to conduct which discriminates or can discriminate against another employee on one of the grounds referred to under Section 1.

## **Section 12 Employer Actions and Duties**

(1) The employer has the duty to take measures necessary to ensure protection against discrimination on any of the grounds referred to under Section 1. This protection shall also cover preventive measures.

(2) The employer shall draw attention to the inadmissibility of such discrimination in a suitable manner, in particular within the context of training and further training, and shall use his or her influence to ensure that such discrimination does not occur. Where an employer has trained his or her employees in an appropriate manner for the purpose of preventing discrimination, he or she shall be deemed to have fulfilled his or her duties under Subsection (1).

(3) Where employees violate the prohibition of discrimination under Section 7(1), the employer shall take suitable, necessary and appropriate measures, chosen in a given case, to put a stop to the discrimination; this may include cautioning, moving, relocating or dismissing the employee in question.

(4) Where employees are discriminated against in the pursuance of their profession by third persons within the meaning of Section 7(1), the employer shall take suitable, necessary and appropriate measures, chosen in a given case, to protect the employee in question.

[...]

## **Section 13 Right of Appeal**

(1) Employees shall have the right to lodge a complaint with the competent department in the firm, company or authority when they feel discriminated against in connection with their employment relationship by their employer, superior, another employee or third party on any of the grounds referred to under Section 1. The complaint shall be examined and the complainant informed of the result of the examination.

[...]

## **Section 14 Right to Refuse Performance**

Where the employer takes no or takes obviously unsuitable measures to stop the harassment or sexual harassment in the workplace, the affected employees shall have the right to refuse performance without loss of pay insofar as this is necessary for their protection. Section 273 of the German Civil Code (Bürgerliches Gesetzbuch) shall remain unaffected.

## **Section 22 Burden of Proof**

Where, in case of conflict, one of the parties is able to establish facts from which it may be presumed that there has been discrimination on one of the grounds referred to in Section 1, it shall be for the other party to prove that there has been no breach of the provisions prohibiting discrimination.

## **Act on the Higher Education Institutions in the Land of Baden-Württemberg (Landeshochschulgesetz – LHG)**

### **Section 4 a Contact Persons for Questions Relating to Sexual Harassment and for Anti-Discrimination**

(1) The higher education institutions appoint for their members and affiliates both a female and a male contact person for questions relating to sexual harassment; in this capacity, the persons appointed are not bound by instructions. The higher education institutions ensure that their members and affiliates are protected from sexual harassment. The higher education institutions determine further procedures in separate regulations.

(2) The higher education institutions appoint for their members and affiliates a contact person for anti-discrimination; in this capacity, the appointed person is not bound by instructions. The



higher education institutions ensure that their members and affiliates are protected from discrimination based on racist, ethnic or religious grounds. The higher education institutions determine further procedures in separate regulations.

[...]

## **Section 12 Data Protection**

[...]

(4) The equal opportunities officer, the contact person for questions relating to sexual harassment, the contact person for anti-discrimination, and the representative for students with disabilities or chronic illnesses, as well as their deputies, including those under section 4 subsection 4 sentence 1 clause 2 and sentence 2 clause 2, are obliged to treat all personal data that they gain access to in the scope of their responsibilities with confidentiality; this also applies within the higher education institution and after their term of office has ended. The higher education institutions inform the individuals under sentence 1 of this obligation when they are appointed or when they assume their responsibilities. Personal data that the individuals under sentence 1 process within the scope of their responsibilities may only be passed on and transmitted to other entities within and outside the university if the person affected agrees to this or it is necessary in order to fulfill a legal obligation.

## **Section 62a Misconduct, Disciplinary Procedures**

(1) Students are guilty of misconduct if they

1. by using force, instructing others to use force, threatening to use violence, or seriously or repeatedly violating a legal order within the scope of the university's right to enforce house rules
  - a) disrupt, impede or attempt to impede the regular operations of an entity of the higher education institution, the tasks of a body of the higher education institution, the holding of events at the higher education institution, or any other activities relating to teaching and studying, or
  - b) significantly impede a member of affiliate of the higher education institution in the exercise of their rights or obligations, or prevent or attempt to prevent them from exercising these,
2. due to an intentionally committed offense that was harmful to a member or affiliate of the higher education institution have been convicted and the nature of the offense threatens to impede the studies or other responsibilities of the member of affiliate,
3. on the premises of the higher education institution intentionally violate the dignity of another person by sexually harassing them within the meaning of section 3 subsection 4 AGG.

Students guilty of misconduct as defined in section 1 may face disciplinary measures.

Disciplinary measures include

1. warning of expulsion (disenrollment),
2. ban from using units and services of the higher education institution,
3. suspension from individual courses up to one semester,
4. expulsion (disenrollment).

(3) Disciplinary procedures are decided by a disciplinary committee; at least one of the committee members has to be a student of the higher education institution with voting rights. The senate (*Senat*) determines the further composition of the disciplinary committee and the procedure for imposing disciplinary measures in statutes, which need to be approved by the president's office (*Rektorat*). In case of disenrollment, a period of up to two years has to be set during which the expelled student cannot re-enroll.

**Regulation on the Use of Buildings and Property of the University of Stuttgart,  
26 June 2016**

**Section 4 Safety and Order**

(2) Any person using a university building must behave in a way that does not disturb others.  
[...]

**Section 8 Penalties Following Violations**

Any person violating the rules set forth in this regulation may be banned from entering the university grounds. German criminal and public order law applies.