

DISCLAIMER: THIS TRANSLATION OF THE “Richtlinie zum Umgang mit Diskriminierung, sexualisierter Gewalt und Mobbing vom 15.02.2019” PUBLISHED IN “Amtliche Mitteilungen 22/2019” IS NOT LEGALLY BINDING. IT IS FOR INFORMATION PURPOSES ONLY.

Guideline of the University of Cologne on Dealing with Discrimination, Sexualized Violence and Bullying

as of 15 February 2019

Pursuant to Sections 2 subsection 4 sentence 1, 22 subsection 1 sentence 1 no. 3 of the Higher Education Act of the State of North Rhine-Westphalia (Higher Education Act – HG) as amended by the Higher Education Future Act (Hochschulzukunftsgesetz – HZG) of 16 September 2014 (GV.NRW. p. 574), as last amended by Article 3 of the Act to Ensure the Accreditation of Study Programmes in North Rhine-Westphalia of 17 October 2017 (GV.NRW. p. 806), in conjunction with Section 12 subsection 5, 13 subsection 1 of the General Equal Treatment Act (AGG) of 14 August 2006 (BGBl. I p. 1897), last amended by Article 8 of the Act of 3 April 2013 (BGBl. I p. 610), the University of Cologne has enacted the following guideline:

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Preamble

In accordance with its mission statement 'Diversity and Equal Opportunities', the University of Cologne sees itself as a non-discriminatory, safe and non-violent place to study, teach and work, where everyone treats one another fairly, respectfully and appreciatively. To this end, the university calls on all members and associates to assume responsibility for themselves and others, and promotes a culture of noticing and identifying discriminatory, encroaching or violent behaviour. From the point of view of those affected, it is important to ensure the greatest possible security and protection. Perpetrators must be held accountable for their actions, but also receive support to change their behaviour.

With this Guideline, the University of Cologne strongly emphasizes that it does not tolerate discrimination, sexualized violence and bullying and – within its sphere of competence – assumes responsibility for safeguarding the personal rights of all its members and associates. The purpose of this Guideline is to raise awareness and to outline prevention measures and intervention procedures.

Section 1

Scope

(1) This Guideline applies to all members and associates of the University of Cologne (Section 9 HG NW), irrespective of temporary/tenured employment or guest stays, as well as to all trainees or other persons employed in the context of their training.

(2) This Guideline applies to all functional areas of the university.

Section 2

Definition

(1) Discrimination means disparagement, contempt, disregard, exclusion or violence against persons based on actual or attributed group-specific characteristics such as gender¹, sexual orientation/identity, origin, disability/illness, religion/belief, age or based on other individual differentiating characteristics (e.g. appearance, institutional membership in an organization). In cases of multiple discrimination, persons may belong to several

¹ This includes gender in the legal sense as well as individual gender identities.

disadvantaged groups and find themselves in situations of discrimination on more than one ground.

a) Direct discrimination by persons or the institution may occur where an act, regulation or measure demonstrably results in objectifiable, i.e. comprehensible and verifiable, unequal treatment of a person or groups of persons.

b) Indirect discrimination by persons or the institution may occur if an act, regulation or measure is formulated neutrally and does not obviously disadvantage certain groups, but its concrete application has a demonstrable effect that regularly disadvantages members of a certain group.

(2) Sexualized violence is defined as all behaviour and conduct which is discriminatory, offensive or humiliating from a sexual point of view and which results in the dignity of the person concerned being violated. This behaviour includes, but is not limited to:

- sexualized non-verbal and verbal communication,
- degrading sexualized representations,
- assault and battery.

(3) Bullying is a conflictual communication or act between/among one or more parties in which the person subjected to it is in a vulnerable situation and is repeatedly and systematically marginalized or directly or indirectly attacked by one or more persons, often over a longer period of time. This behaviour includes, but is not limited to

- the systematic dissemination of discrediting rumours,
- systematic refusal of information relevant to studies or work,
- insults, defamatory and humiliating treatment.

(4) These definitions supplement the concept of discrimination as specified in Section 3 of the General Equal Treatment Act. They do not constitute an exhaustive catalogue, but serve to clarify the cases covered by this Guideline. This can also include behaviours and actions that can be understood as stalking. Stalking is the unwarranted, persistent pursuit and spying out of university members according to Section 1 (1).

Section 3

General prohibition

The forms of discrimination, sexualized violence and harassment described in Section 2 are prohibited. Due to their disruptive and damaging effects on the operation of higher education institutions, they constitute a violation of obligations under employment contracts, employment law, civil service and higher education law and may also constitute criminal offences.

Section 4

Duties of the university headship and persons in leading positions

(1) The University of Cologne shall take all appropriate measures to protect, support and encourage persons affected by discrimination, sexualized violence and bullying to defend themselves. It ensures that the complainants do not suffer any disadvantage and enables unbiased counselling of all parties involved.

(2) Faculties, administrations and central institutions are responsible for designating specific contact persons and for implementing appropriate measures in their areas of responsibility.

(3) Particularly university officials as well as persons with teaching, training and management responsibilities are responsible for compliance with this Guideline in their areas of responsibility:

- a) Through exemplary behaviour and appropriate preventive measures, they contribute to promoting respectful and non-discriminatory interaction with one another and protecting the integrity of all university members – employees as well as students.
- b) They shall ensure that relationships of dependency between managers and employees or faculty and students are organized in a responsible manner and not exploited.
- c) If they become aware of discrimination, sexualized violence or bullying, they may take measures in accordance with Section 7 and Section 8 or consult their superiors on the next management level or a relevant advisory body in accordance with Section 6.

(4) The University of Cologne undertakes to refer to this Guideline in its contracts with external service providers.

Section 5

Awareness-raising and prevention

Awareness-raising and prevention measures include the following:

- a) making this Guideline known to all members and associates of the University of Cologne
- b) providing counselling services (with the possibility of anonymous information and counselling)
- (c) providing information to persons with supervisory, managerial or training responsibilities
- (d) integrating the issue into training courses, in particular for managers and teachers
- (e) providing information, publicity and empowerment measures
- (f) integrating accessibility and security (e.g. avoiding places of fear) in building concepts for the campus.

Section 6

Advisory and appeal procedure

(1) The advisory and appeal procedure consists of individual counselling and support (Section 7 Informal procedure), on the one hand, and complaints to relevant bodies (Section 8 Formal procedure), on the other. In all cases, strict confidentiality must be guaranteed.

(2) The initial contact may be made by the person concerned or on behalf of a third party. Official channels need not be followed.. Possible contact points for initiating informal or formal procedures are:

a) general:

- a. professors
- b. members of the university headship and/or deans' offices
- c. other persons with teaching, management or training responsibilities
- d. Department for Gender & Diversity Management

- e. In the case of discrimination based on gender or sexualized discrimination: all the above-mentioned and the decentral Equal Opportunities Officers of the Faculties, the central Equal Opportunities Officer
 - f. spokesperson of persons with special needs
- b) for employees:
- a. General Equal Treatment Act Complaints Office at the Legal Department (General Equal Treatment Act Section 12 subsection 5, Section 13 subsection 1)
 - b. Academic and Non-Academic Staff Councils, Cologne University Hospital Staff Council
 - c. Employee and Manager Counselling (in Department 42 of the central administration)
 - d. spokesperson of persons with special needs
- c) for students:
- a. Suggestions and Complaints Office at the Vice-Rectorate for Teaching and Studies (SCO)
 - b. Liaison Lecturers on Discrimination against Students in the Faculties
 - c. members of the Student Council, the Autonomous Department for Women and Lesbians, the Autonomous Department for Lesbians and Gays, the Autonomous Department for Foreigners, the Autonomous Department "Studying without Barriers" (SoS)
 - d. student associations (Fachschaften)
 - e. representative of students with special needs or chronic illnesses

(3) At any stage of the informal or formal procedure, all interested parties shall be free to make use of further internal and external advisory services.

Section 7

Informal procedure: advice

(1) The informal procedure shall provide advice and assistance to complainants and defendants. It consists of initial contact with the appropriate contact points (Section 6) and possible further steps (Subsection 2).

(2) In further informal proceedings, the confidants refer complainants to internal and external counselling services, if necessary. Possible further procedural steps – in agreement with the person concerned or their representative – are:

- a) accompanying the complainant to further informal talks
- b) recommending professional mediation by a third, neutral person
- c) contact with a psycho-social counselling centre
- d) initiating the formal investigation procedure.

Section 8

Formal procedure: complaint

1. The purpose of the formal procedure is to inform the responsible body at the UoC of the allegations and, where appropriate, to take further action against the accused person(s) or institution. It can be initiated by the person lodging the complaint or by a third party without prior informal proceedings.

2. The formal procedure shall be initiated by a written or oral presentation of the facts by the person lodging the complaint or by a legitimate representative to one of the following bodies:

- a) the person's superior
- b) the General Equal Treatment Act complaints office for employees
- c) the Human Resources Division (Division 4 of the central administration) in the case of employees
- d) the Suggestions and Complaints Office (SCO) for students
- e) the Student Affairs Division (Division 2 of the central administration) in the case of students
- f) the university headship

Seeking the support of an advisory body in accordance with Section 6 is possible at any time.

(3) In the case of employees, the procedure shall be reviewed by the Human Resources Division, in the case of students by the Student Affairs Division or by the Legal Department. The accused person is asked to comment on the complaint in person or in writing. The notified bodies shall document all hearings and the established facts and inform all parties of the result. Where appropriate, measures will be taken in accordance with Section 9.

Section 9

Sanctions

(1) The following sanctions may be imposed on employees of the University of Cologne, depending on the seriousness of the offence:

- a) a regulating talk
- b) verbal/written instruction/warning
- c) ban from the use of university facilities
- d) house ban (e.g. partial or temporary)
- e) written warning
- f) transfer out of or to another position at the university
- g) withdrawal of a teaching assignment
- h) opening of disciplinary proceedings
- i) termination with or without notice (for cause)
- j) criminal charge

(2) With regard to students and all those mentioned under Section 1 who are not employed at the University of Cologne, the following measures may be considered, depending on the seriousness of the offence:

- a) verbal/written instruction/warning
- b) ban from the use of (certain) university facilities

- c) ban from one or more courses
- d) house ban (e.g. partial or temporary)
- e) criminal charge

3. An offence shall be regarded as particularly serious if it is committed by taking advantage of relationships of dependence and/or relationships in which a duty of care exists.

Section 10

Collection of data

All of the UoC's official advisory and complaints offices collect data on the number of complaints lodged as well as types of discrimination reported in anonymous form and in compliance with all data protection regulations. The data is queried by the Department for Gender & Diversity Management at the end of the year. This serves to ensure the quality of the advisory and support services and helps the university develop appropriate prevention services.

Section 11

Entry into force

This Guideline shall enter into force on the day following their publication in the Official Bulletins of the University of Cologne. At the same time, the Guideline on Dealing with Sexual Discrimination of the University of Cologne of 19 September 2013 (Official Bulletins 80/2013), as amended on 20 April 2016 (AM 61/2016), shall cease to apply.

Issued by decision of the Senate of the University of Cologne on 30 January 2019.

Cologne, 15 February 2019

sgd.

The Rector
of the University of Cologne

Professor Dr. Axel Freimuth