Executive University Board Directive on Occupational Safety

at Universität Hamburg (excluding UKE)

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Occupational safety obligations at Universität Hamburg (excluding UKE)

Introduction

All employees are responsible for their own conduct and thus also for compliance with occupational safety provisions. This means ensuring the occupational safety, health, and welfare of others and yourself.

Occupational safety and health as well as environmental protection are not only practiced in privately operated enterprises, but also at universities and higher education institutions. Legal provisions with respect to occupational safety and health and environmental protection apply for academic and scientific institutions regardless of the liberties for the arts and sciences, research, and teaching granted in Article 5 subsection 3 of the Basic Law for the Federal Republic of Germany (Grundgesetz für die Bundesrepublik Deutschland, GG). These liberties are subject to the confines of other general liberties, such as the constitutional right to life and physical integrity (Article 2 subsection 2 GG), which are reflected in the applicable occupational safety and health and environmental protection provisions.

We must differentiate between occupation safety procedures for university settings and those drafted primarily for hierarchically organized companies. There are two positions at universities and private enterprises that are comparable: the head of operations or the head of the university and management positions.

Management duties and responsibility for occupational safety

Pertinent occupational safety provisions place the responsibility for occupational safety with the executive managers of an institution (i.e., the employer, owner, or operator). An employer has extensive decision-making autonomy in an enterprise's operations, hence the employer is generally responsible for occupational safety. This obligation is inalienable from the right of authority. At universities, employer responsibilities are carried out by university management. University management is responsible for creating and maintaining safe conditions for employees, students, visitors, and the environment.

To implement its goals, a business owner, similar to university management, relies on its leadership, which is vested with the authority to issue instructions and directives to employees or, in the case of universities, also its students. Each manager’s authority to give instructions and directives is inextricably intertwined with the duty to safeguard the well-being of employees and students. Within the scope of their responsibilities, managers must ensure that the life and health of their employees are not endangered and at best foster health. A manager’s responsibility ends where funding and authority ends. Managers have a duty to notify their superiors of any problems that they cannot rectify. These must initiate safety measures depending on the degree of peril.
1. General responsibility for occupational safety at Universität Hamburg

University management is responsible for the organization and supervision of occupational safety and health and environmental protection for the entire University, including buildings used by Universität Hamburg.

University management is responsible for inducing other bodies, committees, functionaries, and members of the University to discharge their obligations. University management must ensure that the technical, organizational, and staffing structures as well as the financial means and internal university regulations are in place to implement and maintain occupational safety and health and environmental protection measures.

President

Pursuant to Section 81 subsection 2 of the Hamburg higher education act (Hamburgisches Hochschulgesetz, HmbHG), the president is vested with the authority to act on behalf of the University and manage its affairs both in and out of court.

Head of administration

The head of administration is responsible for undertaking the requisite measures for occupational safety and environmental protection. These duties shall be executed as a state mandate and may be delegated to other individuals in certain cases or matters. In this regard, the head of administration shall be responsible for organization and supervision. The head of administration shall establish the organizational and staffing structures to implement the provisions.

These include:

- delegating occupational safety rights, duties, and tasks to professors, department heads, heads of organizational units, and central operating units, including delineating areas of responsibility through generalized or specific rules and regulations;
- properly notifying the responsible persons about current occupational safety and health and environmental protection legal provisions and any amendments thereto, and—insofar as required legally—issuing concrete orders on specific safety aspects;
- providing expert advice (including establishing and equipping an occupational safety and environmental protection team with skilled employees for occupational safety and qualified personnel for operational environmental protection);
- introducing all reasonable and necessary centralized precautionary and defensive measures for anticipated risks as well as mitigating loss and damage (in particular the organization of preventive fire safety);
- ensuring the safe and environmentally sound condition of buildings and operational facilities including all matters directly associated with buildings, such as ventilation systems, elevators, permanently installed safety devices, electrical installations, etc.;
• coordinating occupational safety and health and environmental protection measures between the University and other businesses and companies that use the same facilities as Universität Hamburg;
• organizing an Occupational Safety Commission (ASA) and presiding as chair of this commission for University management;
• organizing occupational medical care;
• continuing to improve and adapt occupational safety and health and environmental protection measures based on new insights.

2. Responsibility in organizational units and positions of sole management

Responsibility for occupational health and safety within the University, i.e., establishing and maintaining safe and secure conditions, is a function of management, which is largely determined by a position of authority over allocated staff and control over the disposition of resources. More specifically, this means the authority to specify the duties and tasks employees are to undertake, the realization of work outcomes, and the scope and manner of work as well as the authority to prioritize how resources are used.

Managers are responsible for the employees subordinate to them and the students entrusted to them. This responsibility is inextricably intertwined with the power and authority to direct and instruct others. All managers are responsible for occupational health and safety.

President and vice presidents
The president and vice presidents are directly responsible for their operational areas of University Administration. This notwithstanding, the president has overall responsibility for the entire University.

Head of administration
The head of administration is responsible for the areas within the University Administration assigned to him or her without prejudice to his or her responsibilities within the scope of the duties associated with the overall responsibility of university management.

Deans
The deans are responsible for the office of the dean and its affiliated institutions / organizational units. The offices of the dean may delegate occupational safety duties and obligations to the heads of organizational units or institutions.

Professors
Professors are directly responsible for their respective areas of research and teaching, and bear responsibility for the occupational safety and health of their employees and students. They must organize their research and teaching in conformity with environmental protection provisions.
This Executive University Board Directive on Occupational Safety transfers the occupational safety duties for their respective area to the professors.

**Heads of organizational units or central operating units**
Heads of organizational units or central operating units bear responsibility for occupational health and safety within their respective unit.

**Managers**
Each manager or instructor at Universität Hamburg shall act on behalf of the president, the head of administration, or head of the respective institution, and shall bear responsibility for the occupational safety and health of employees and students for the area in which he or she has authority and must comply with environmental protection requirements.

3. **Occupational health and safety rights, duties, and tasks**

Rights, duties, and tasks cover the entire respective area of management and are upheld autonomously by those responsible. If resources or the scope of authority are insufficient, the superordinate authority for occupational safety and health must be informed regardless of any continuing responsibility.

It must be ensured that

- work processes are organized in line with the occupational health and safety provisions;
- the affected employees are involved in the conducting and updating of the risk assessment;
- employees, students, and other members of Universität Hamburg are informed of the potential dangers in their workplace and the required safety measures and trained accordingly before they begin work, but at least once per year and in case of specific incidents;
- students are informed of escape routes and assembly points at the beginning of the course;
- only safe and appropriate equipment is used, which is serviced/inspected regularly;
- the necessary personal protective equipment is procured and made available, its functionality regularly reviewed, and it is used and worn by employees or students in compliance with the regulations;
- any safety issues identified are rectified without delay or the according information or measures are introduced for their rectification;
- instructions (e.g., on how to use machines or handle hazardous substances) are prepared for the responsible area, affected employees trained in these, and their application and implementation monitored;
• an effective contingency plan (first aid, fire safety, and evacuation) is drawn up and the required personnel (e.g., fire safety officers, first aiders, evacuation helpers) are appointed and provided with the appropriate training;
• safety officers are appointed and trained;
• occupational medical care and other health measures are implemented;
• employment restrictions for youths and pregnant women are adhered to;
• work-related accidents are reported;
• external service providers are trained as required.

Delegation
Management may delegate duties for their respective areas of responsibility. Any delegation must include all requisite authority to carry out duties (e.g., commitment of resources and decision-making authority). The delegator must reasonably believe that the delegatee has the ability to properly execute the duties delegated to him or her (i.e., this person must possess the requisite competence to handle the task because of his or her education, professional experience, and/or training). The delegator must ensure that the delegation is properly documented. The delegator shall remain responsible for supervision upon any delegation of duties. He or she must be satisfied that the delegated duties are being carried out.

4. Rights and obligations of employees and students

Within the scope of their abilities and in accordance with instructions and directives from their managers or instructors, employees and students must take steps to preserve their own safety and health in their place of work or study.

Employees and students must use machines, equipment, tools, substances, means of transportation, sundry implements, safety devices, and the personal protective equipment supplied to and for them as designated. Employees and students must report any immediate and material endangerment to safety and health as well as any malfunction of any safety devices or equipment they discover to the responsible manager or instructor. Employees and students may propose suggestions to managers and instructors about anything associated with health and safety issues.

5. Expert advice, supervision, and support

Occupational safety specialists
All qualified occupational safety specialists at Universität Hamburg are assigned to the central Occupational Safety and Environmental Protection Unit. They provide support and assistance to persons in charge of occupational safety within the faculties as well as within University Administration and the central facilities on issues of accident prevention, occupational safety, and the humane organization of the workplace. The Occupational Safety and Environmental Protection Unit is assigned directly to the head of administration and is an instrument for enforcing the head of administration’s responsibility for organization and supervision.
Company medical officer
Company medical officers are responsible for providing support and advice to their employers on all issues associated with occupational safety and health and accident prevention. Moreover, they are responsible for carrying out prescribed occupational health screenings.

Universität Hamburg receives its medical assistance from the Free and Hanseatic City of Hamburg’s Arbeitsmedizinischer Dienst (state occupational medical service).

Safety officers
Safety officers are employees who, in addition to their primary job duties, volunteer to be appointed as safety officers by their manager in collaboration with the Staff Council. They do not have any authority to issue instructions or directives in this capacity, nor do they have a supervisory function. They work with the occupational safety specialists from the Occupational Safety and Environmental Protection Unit. Their duties include, among other things:

- determining whether or not their colleagues are acting in a safe manner, e.g., with regards to the correct use of personal protective equipment and technical safety devices, and providing them with advice and instructions to that effect;
- drawing attention to accident and health risks;
- observing, advising, and providing support.

6. Special safety aspects

Fire safety
The fire safety officer assists University management in all matters pertaining to fire safety. The head of administration is responsible for appointing the fire safety officer.

Hazardous goods
Business owners and operators transporting hazardous goods by rail, road, sea, or air must appoint in writing at least one hazardous goods officer.

Universität Hamburg is considered a dispatcher, shipper (this includes packing and loading), transporter, and receiver of hazardous goods. The head of administration is responsible for appointing the hazardous goods officer. The duties of a hazardous goods officer include:

- monitoring compliance with provisions for the transportation of hazardous goods;
- advising the company on activities associated with the transportation of hazardous goods;
- preparing an annual report for the head of administration about the activities of the business concerning the transportation of hazardous goods;
- reviewing processes and procedures with regard to the tasks in question;
- introducing measures informing on the dangers relating to the transportation of hazardous goods.
Genetic engineering facilities

Universität Hamburg, represented by its president, is the operator as defined in the genetic engineering act (Gesetz zur Regelung der Gentechnik, GenTG) of the genetic engineering facilities, genetic engineering work, and the release of genetically altered organisms at Universität Hamburg. These duties have been delegated to the head of administration. The Occupational Safety and Environmental Protection Unit is responsible for coordinating administrative tasks. The obligations and duties of project managers and biological safety officers are set forth in the document entitled Directive on the Application of Genetic Engineering at Universität Hamburg dated September 2015 as well as the administrative channels for notices, reports, and applications associated with genetic engineering facilities. With respect to the scope of responsibility for control and supervision, project managers are not subject to the authority of the respective institute, but rather the exclusive authority of the head of administration, as part of his or her organizational responsibility, in the discharge of their distinct project manager obligations pursuant to Section 14 of the genetic engineering safety ordinance (Gentechniksicherheitsverordnung, GenTSV). A central biological safety officer shall be appointed to assist the head of administration and advise the head of administration, genetic engineering facility project managers, and on-site biological safety officers on technical issues. The administration of the respective institute does not have any authority to dictate instructions to project managers to the extent this would affect the execution of obligations arising from the operation of genetic engineering facilities.

Laser safety

University management shall appoint in writing qualified laser safety officers if class 3R, 3B, and 4 lasers and/or other artificial optical radiation sources similarly dangerous for eyes and skin are in operation. The head of administration shall appoint laser safety officers upon the recommendation of the person responsible where the laser equipment is operated, upon definition of the scope of responsibility and decision-making authority and participation of the staff councils. Laser safety officers shall provide support and assistance to their respective manager for implementation of the requisite safety measures, monitor proper and safe operation, and cooperate with the Occupational Safety and Environmental Protection Unit and the University’s medical officer. See also the Laser Safety Regulations at Universität Hamburg.

Radiation safety

University management is responsible for radiation safety as per the radiation protection ordinance (Verordnung über den Schutz vor Schäden durch ionisierende Strahlen, StrlSchV). The head of administration is responsible for carrying out the duties and obligations pursuant to Section 83 HmbHG. The head of administration shall delegate duties to the radiation safety authorized representative, e.g., the administration of operational and administrative organization within the scope of StrlSchV or supervision of the discharge of duties by radiation safety officers. The authorized radiation safety representative shall appoint in writing qualified radiation safety officers to manage and supervise activities subject to StrlSchV and set forth the
scope of radiation safety officers’ duties, the scope of their internal decision-making authority, and the scope of the requisite authority to implement the duties delegated to them. Radiation safety officers shall have the authority to issue instructions and directives within their own assigned work area in an institute or working group when applying their technical knowledge as well as in matters involving radiation safety and protection. Radiation safety officers may not be hindered from discharging their duties or discriminated against for discharging their duties. Please also see Universität Hamburg’s radiation safety instructions.

Date

Univ. Prof. Dr. Dr. h.c. Dieter Lenzen                     Dr. Martin Hecht
Annex: Legal basis

The legal basis is premised predominately on the following statutes and regulations as amended:

- Act on the Implementation of Measures of Occupational Safety and Health to Encourage Improvements in the Safety and Health Protection of Workers at Work (Arbeitsschutzgesetz, ArbSchG)
- German health and safety regulations for artificial optical radiation (Verordnung zum Schutz der Beschäftigten vor Gefährdungen durch künstliche optische Strahlung, OStrV)
- Act on Occupational Physicians, Safety Engineers and Other Occupational Safety Specialists (Gesetz über Betriebsärzte, Sicherheitsingenieure und andere Fachkräfte für Arbeitssicherheit, ASiG)
- Ordinance on Workplaces (Verordnung über Arbeitsstätten, ArbStättV)
- Working hours act (Arbeitszeitgesetz, ArbZG)
- Industrial safety and health ordinance (Verordnung über Sicherheit und Gesundheitsschutz bei der Verwendung von Arbeitsmitteln, BetrSichV)
- Ordinance on Safety and Health Protection at Workplaces Involving Biological Agents (Verordnung über Sicherheit und Gesundheitsschutz bei Tätigkeiten mit Biologischen Arbeitsstoffen, BioStoffV)
- Chemicals act (Chemikaliengesetz, ChemG)
- Chemical prohibition ordinance (Verordnung über Verbote und Beschränkungen des Inverkehrbringens und über die Abgabe bestimmter Stoffe, Gemische und Erzeugnisse nach dem Chemikaliengesetz, ChemVerbotsV)
- German Social Accident Insurance Regulation 1 (Deutsche Gesetzliche Unfallversicherung Vorschrift 1, DGUV, Vorschrift 1)
- German Social Accident Insurance Regulation 2 (Deutsche Gesetzliche Unfallversicherung Vorschrift 2, DGUV, Vorschrift 2)
- Hazardous goods officer ordinance (Verordnung über die Bestellung von Gefahrstoffbeauftragten in Unternehmen, GbV)
- Ordinance on the supervision of the transportation of hazardous goods (Verordnung über die Kontrollen von Gefahrguttransporten auf der Straße und in den Unternehmen, GGGKontrollV)
- Hazardous substances ordinances (GGVSee, GGVSEB, GGAV, ADR)
- German genetic engineering act (GenTG)
- German hazardous goods transportation act (Gesetz über die Beförderung gefährlicher Güter, GGBefG)
- Hamburg higher education act (Hamburgisches Hochschulgesetz, HmbHG)
- Act on the prevention and control of infectious diseases (Gesetz zur Verhütung und Bekämpfung von Infektionskrankheiten beim Menschen, IfSG)
- Act governing the protection of youths in employment (Gesetz zum Schutze der arbeitenden Jugend, JArbSchG)
- German recycling management act (Gesetz zur Förderung der Kreislaufwirtschaft und Sicherung der umweltverträglichen Bewirtschaftung von Abfällen, KrWG)
• Ninth product safety ordinance for machines (Neunte Verordnung zum Produktsicherheitsgesetz, 9. ProdSV)
• Protection of mothers at work and during training or studies act (Gesetz zum Schutz von Müttern bei der Arbeit, in der Ausbildung und im Studium, MuSchG)
• Occupational safety and health ordinance for the proper use of personal protective equipment (Verordnung über Sicherheit und Gesundheitsschutz bei der Benutzung persönlicher Schutzausrüstungen bei der Arbeit, PSA-BV)
• Book V of the German Social Security Code (Sozialgesetzbuch Fünftes Buch, SGB V)
• Book VII of the German Social Security Code (Sozialgesetzbuch Siebtes Buch, SGB VII)
• Twelfth emissions incidents ordinance (Zwölfte Verordnung zur Durchführung des Bundes-Immissionsschutzgesetzes, 12. BlmSchV)
• Radiation protection act (Gesetz zum Schutz vor der schädlichen Wirkung ionisierender Strahlung, StrlSchG)
• Radiation protection ordinance (Verordnung über den Schutz vor Schäden durch ionisierende Strahlen, StrlSchV)
• Ordinance on Occupational Health Care (Verordnung zur arbeitsmedizinischen Vorsorge, ArbMedVV)
• Hamburg ordinance for the building and operation of locations of assembly (Verordnung über den Bau und Betrieb von Versammlungsstätten, VStättVO)
• Water resources act (Gesetz zur Ordnung des Wasserhaushalts, WHG)