

This is a translation of the German original. In the event of any discrepancy,
the German text prevails.

Directive for Protection against Sexual Discrimination, Harassment, and Violence at Universität Hamburg

Preamble

Universität Hamburg encourages all its members and staff to work together as equals at all levels of teaching, research, education, administration, and self-governance. It places great value on trust, cooperation, and respectful conduct. Universität Hamburg strives to protect the personal rights and individual boundaries of those working within its area of responsibility. All members and staff of Universität Hamburg are called upon to contribute to a work and study environment that fosters personal integrity and self-respect and does not tolerate sexualized discrimination, harassment, or violence. In particular, individuals charged with educational, training, and leadership tasks in teaching and research, administration and self-governance have special duty-of-care responsibilities. This Directive serves to protect against sexual discrimination, harassment, and violence; raise awareness; and provide measures for their prevention, as well as intervention procedures. Universität Hamburg thus regulates the responsibilities and procedures with regard to sexual discrimination, harassment, and violence in its area of responsibility. This Directive lays out specific measures for implementing the relevant provisions of the General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz, AGG), the Hamburg higher education act (Hamburgisches Hochschulgesetz, HmbHG) and the internal obligations imposed by the Equal Opportunity Directive for Universität Hamburg Academic Members and the Equal Opportunity Plan for the Technical, Library and Administrative Staff of Universität Hamburg.

Section 1 Scope

This Directive applies for all members and staff of Universität Hamburg as defined in Section 2 of the Universität Hamburg Statutes, as well as scholarship holders, researchers pursuing a *Habilitation* (postdoctoral qualification), and auditing students.

Section 2 Terminology

- (1) Universität Hamburg defines sexual discrimination pursuant to the General Act on Equal Treatment (AGG), as direct or indirect discrimination based on sex or gender identity. This includes sexual harassment and violence, i.e., unwelcome sexual or gender-related conduct, whether in verbal, nonverbal, or physical form, which is intended to or does affect the dignity of the person subject to it, or creates an intimidating, hostile, degrading, humiliating or offensive environment. This is not determined according to the motivation or intent behind the conduct, but by the effect on the individual targeted, e.g., by unilateral, inappropriate, or pressurizing conduct. Whether or not the affected individual made their rejection clear is not material.

- (2) Such conduct may include verbal, nonverbal, or physical conduct, and, according to the Federal Anti-Discrimination Agency, may include:
- intrusive or insulting comments about the clothing, appearance, or private life of an individual
 - sexually suggestive comments, jokes, or questions, e.g., about a person's private or intimate life
 - sexual innuendos
 - sexual or inappropriate invitations to meet
 - disparagement or discrimination based on gender, sexual orientation, or gender identity
 - unwelcome, intrusive, or intimidating staring or suggestive looks
 - catcalling
 - showing, spreading, or visibly presenting pornographic images
 - indecent exposure
 - stalking
 - unwelcome, inappropriate, or sexually-oriented physical contact
 - repeated attempts at physical closeness, repeated jostling, repeated failure to maintain the usual personal distance (about an arm's length)
 - unwelcome sexual acts or requests to engage in same

The terminology specified here add to the terminology on discrimination as defined in Section 3 AGG, but does not constitute an exhaustive list, rather serves to improve the understanding of cases falling under this Directive.

- (3) Women, lesbian, homosexual, bisexual, trans, inter and queer (LGBTIQ+) individuals are at particular risk of sexual discrimination, harassment, and violence. The risk increases for individuals also perceived to have a different origin, religion, age, or disability. Multiple discrimination, i.e., discrimination on the basis of multiple characteristics, has additional, particularly severe consequences for those affected.

Section 3 General prohibition

- (1) Sexual discrimination, harassment, and violence are prohibited at Universität Hamburg and in nonuniversity operational activities. They can result in a place of work or learning that is intimidating, stressful, and degrading, cause health risks, and present a massive infringement of personal rights.
- (2) Sexual discrimination, harassment, and violence based on the exploitation of dependencies in the place of work or study under threat of personal or professional disadvantages, or promise of advantages are deemed particularly serious.
- (3) All members and staff of Universität Hamburg, particularly those charged with educational, training, and leadership tasks in teaching, research, education,

administration, and self-governance have a duty of care to ensure that sexual discrimination and violence do not occur.

Section 4 Preventive measures

- (1) Universität Hamburg strives to take specific measures to prevent and avert sexual discrimination, harassment, and violence. These include, for example:
 - announcement of this directive to all members and staff of Universität Hamburg;
 - advising services for staff and students;
 - regular advanced training on sexual discrimination, harassment, and violence for Universität Hamburg staff members, particularly for those in leadership positions;
 - development of specific concepts to prevent sexual discrimination, harassment, and violence in teaching, e.g., by training teachers and awareness-raising teaching material;
 - practical guidelines and procedural security, including for those affected, witnesses, and supervisors, e.g., by distributing information sheets, brochures, handouts, and information on University web pages;
 - raising awareness internally, e.g., through posters and general information on the subject;
 - founding a working group on sexual discrimination, harassment, and violence that meets regularly;
 - construction measures (e.g., lighting, women-only parking lots);
 - raising awareness among security staff

Section 5 Advice services and contact persons at Universität Hamburg

- (1) Universität Hamburg provides autonomous, qualified advisory offices for employees, students, and other staff and members of Universität Hamburg. Staff affected, involved, observing, or reported to (e.g., supervisors or members of interest groups) may contact the Office of Advising for Sexual Discrimination and Violence (Personal Counseling, Addiction Prevention and Sexual Discrimination), while students may contact the Office of Advising for Sexual Discrimination and Violence. All advisory discussions are strictly confidential, and may be kept anonymous on request.
- (2) Additional points of contact for initial advice and referrals, and the related subject advisory panels are:
 - equal opportunity representatives
 - staff councils
 - representatives for disabled staff
 - conflict mediators (for staff members)
 - personal counseling (for staff members)
 - psychological counseling for students

All these advisory discussions are strictly confidential, and may be kept anonymous on request.

- (3) University leadership and contact persons with leadership duties, e.g., duty of care: concerns may also be reported to University leadership, supervisors, deans, and HR. In the interests of the person(s) affected, they also strive to handle information confidentially. However, complete confidentiality cannot be guaranteed, as part of their duty of care for all persons listed in Section 1 may require them to name certain individuals or courses of action.

Section 6 Right to lodge a complaint and complaints procedure

- (1) Persons falling under Section 1 have the right, pursuant to Section 1 AGG, to lodge a complaint with the responsible AGG Complaints Office. The AGG Complaints Office for Universität Hamburg employees is based in the Legal Unit, the AGG Complaints Office for students is based in Department 3: Studies and Teaching.
- (2) The complaint may be submitted to the AGG Complaints Office for staff or students at any time and in any form. The complaint must state which persons and bodies have already been approached on the matter and what action, if any, they have initiated. The complaint will be briefly processed to clarify the next steps of the process with the person affected. Where desired, the affected person may include a person of their trust in any discussions.
- (3) The statutory time frames of the AGG must be observed when asserting compensation claims and damages.
- (4) Contact persons are obliged to treat the information confidentially for the protection of the persons concerned. However, information regarding the affected person may be disclosed to the extent necessary to carry out the complaint procedure, as required by law, or by substantially overriding public interests (for example, to report a planned crime). Depending on the nature of the matter, HR or the University leadership may be brought in to examine consequences under labor law, criminal law, or University rules. The affected person will be advised in advance in such cases. The process as a whole will be discussed with the affected person.
- (5) The accused must be given the opportunity to provide an oral or written statement.
- (6) The office conducting the procedure must investigate the facts, and verify if this Directive and/or AGG provisions have been breached. In doing so, they must see any available evidence, and interview witnesses.

- (7) The findings must be communicated to the complainant, Section 13 subsection 1 sentence 2 AGG.

Section 7 Measures and sanctions

- (1) The immediate protection of affected person(s) must be ensured via interim measures, independently of sanctions.
- (2) The office conducting the procedure must investigate measures pursuant to civil service law, labor law, and the University rules. Measures against employees and students found to have committed harassment may include, as proportionate to the nature and gravity of the conduct:
 - a. The following measures may be brought against Universität Hamburg staff:
 - personal conversation conducted by the supervisor, with reference to the prohibition against sexual harassment and violence
 - reprimand
 - warning
 - transfer or redeployment to another place of work
 - ordinary or extraordinary termination (for employees) or initiation of disciplinary proceedings (for civil servants)
 - criminal charges
 - b. The following measures may be brought against students and all others listed under Section 1 subsection 1 who are not employed by the University:
 - personal conversation, e.g., through the office of the dean
 - exclusion from classes/courses
 - exclusion from using University facilities
 - the individual being banned from the premises
 - the individual being withdrawn from studies
 - criminal charges

Section 8 Effective date

This Directive was adopted by the Executive University Board on 15 November 2021. This Directive enters into force on proclamation, and repeals the Directive for Protection Against Sexual Discrimination, Harassment, and Violence of Universität Hamburg dated 16 April 2009.