

Policy on protection against discrimination, harassment and violence in accordance with the General Equal Treatment Act at Emden/Leer University of Applied Sciences

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Preamble

Emden/Leer University of Applied Sciences sees itself as a non-discriminatory and non-violent place to study, teach and work and prohibits discrimination, harassment and violence by university staff or members.

We promote a culture of looking out. Members of the university are called upon to offer help to those affected in cases of discrimination or harassment that come to their attention and to support them in resolving the conflict.

The purpose of this guideline is to raise awareness of harassment and discrimination, to define prevention measures and to identify established, effective procedures for intervention and elimination with legal certainty.

This guideline is intended to apply the prohibitions of discrimination of the General Equal Treatment Act (AGG) in particular to and for the benefit of all members and employees of Emden/Leer University of Applied Sciences who are not bound to the university under employment or service law and are therefore not covered by the scope of application of the AGG. The guideline provides affected persons with a right to advice and a right to lodge a complaint. It expressly encourages those affected to make use of this and to seek appropriate support.

The directive obliges the university to take a sensitive look at harassment, discrimination and violence, to proactively establish preventative measures and to take sanctions if necessary.

This guideline integrates and replaces the "Guideline against sexualized discrimination and violence", which has been in place since 2014 and was updated in 2016.

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§ 1 Objectives

The guideline serves to protect against and reduce discrimination at the Hochschule Emden/Leer. The aim of the directive is to prevent or eliminate all forms of discrimination, in particular racist, ethnic, anti-Semitic and anti-Muslim discrimination, as well as discrimination relating to disability and physical appearance, gender, gender or sexual identities and ascribed or assumed or actual characteristics such as age, religion or ideology, social origin or social status and other stigmatizations.

§ 2 Scope of application

- (1) Within its scope of application, the provisions of the AGG take precedence over this Directive.
- (2) Furthermore, the guidelines apply to all members and affiliates of the University of Applied Sciences Emden/Leer within the meaning of Section 16 of the Lower Saxony Higher Education Act (NHG).
- (3) The policy applies to university-related dealings, both in the event of discrimination, harassment or violence on campus in Emden and Leer and in the university-related digital space.
- (4) The Directive shall also apply in cases of discrimination by third parties or against third parties at the respective study locations of the university if at least one person involved belongs to the group of persons referred to in paragraph 2 and has acted in the course of their employment or studies.

§ 3 Definitions

- (1) The terms used here are based on the terms in Section 3 AGG as amended, including the case law based on it, and supplement them:
 - a. Direct discrimination exists if a person is, has been or would be treated less favorably than another person in a comparable situation on one of the grounds listed in § 1. Direct discrimination on grounds of sex also exists in the case of less favorable treatment of a woman due to pregnancy or maternity.
 - b. Indirect discrimination occurs when apparently neutral provisions, criteria or procedures put or may put persons at a particular disadvantage compared to other persons on one of the grounds listed in § 1, unless the provisions, criteria or procedures in question are objectively justified by a legitimate aim and the means of achieving this aim are appropriate and necessary.
 - c. Harassment is discrimination if the purpose or effect of unwanted conduct related to a ground referred to in § 1 is to violate the dignity of the person concerned, in particular if it creates an intimidating, hostile, humiliating, degrading or offensive environment.

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- d. Sexualized discrimination, harassment and violence are practiced in many different ways. This happens verbally, non-verbally and also through physical assaults. According to this guideline, behaviour and actions are considered sexualized discrimination and violence if they are sexually offensive and humiliating and result in the person against whom the behaviour and actions are directed feeling threatened, humiliated or harassed. Individual personality boundaries must be taken into account here.

Sexualized discrimination, harassment and violence is any sexually tinged behaviour that those affected declare undesirable or that is generally considered undesirable.

Such behavior that violates the dignity of persons includes in particular

- sexually degrading language,
- degrading remarks about people or their bodies that are placed in a (even subtle) sexual context,
- sexually degrading comments about intimate life and the body,
- obscene and sexually degrading graffiti,
- the verbal, written and pictorial presentation of obscene, sexually degrading content or depictions,
- copying, using, utilizing or displaying obscene, sexually degrading digital content,
- Incitement to sexualized or sexual behavior,
- Persecution and coercion with (also indirect) sexual background,
- Physical assault and rape.

- e. An instruction to discriminate against a person on one of the grounds listed in § 1 is deemed to be discrimination. Such an instruction exists in particular if someone instructs a person to behave in a way that discriminates or may discriminate against another person on a ground referred to in Section 1.

(2) Harassing and violent behavior can be both verbal and non-verbal. This may include, for example, defamation, insults and derogatory statements, hostility, threats and physical assaults that are related to one of the reasons listed in § 1.

(3) The behaviours covered by the concept of harassment and sexualized harassment include in particular (sexualized) acts and behaviours that are punishable under criminal law.

(4) Behaviour that can be classified as bullying or stalking can also constitute harassment or sexualized harassment in the sense described above.

§ Section 4 Prohibition of discrimination

(1) Persons pursuant to § 2 may not be discriminated against on the basis of one or more of the grounds or reasons specified in § 1; this also applies if the person committing the discrimination merely assumes the existence of one of the grounds or reasons specified in § 1.

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(2) Provisions in agreements that violate the prohibition of discrimination in paragraph 1 are invalid.

(3) Discrimination in accordance with paragraph 1 by members and affiliates of Emden/Leer University of Applied Sciences may in particular constitute a breach of contractual, civil service, civil service or university law obligations.

(4) Due to the duty of care, members and affiliates of the university with training, qualification and management tasks in teaching, research, training, administration and self-administration are responsible for ensuring that discriminatory behavior and the use of violence are prevented or stopped in their areas of work. Discrimination, harassment and violence that exploit relationships of dependency at the training or workplace and during studies under the threat of personal or professional disadvantages or under the promise of advantages are considered to be particularly serious.

(5) Different treatment is permissible if suitable and appropriate measures are taken to prevent or compensate for existing or impending disadvantages or discrimination on one of the grounds specified in § 1.

§ 5 Preventive and structural measures

Emden/Leer University of Applied Sciences undertakes to take measures to prevent or eliminate discrimination on any of the grounds listed in § 1. This protection includes preventive and structural measures. The university is constantly developing preventive and structural measures to prevent or eliminate discrimination with regard to its specific problem situations.

(1) Preventive measures include in particular

- the announcement of this guideline to all members and affiliates of the university as well as its permanent, easy-to-find and accessible publication, in particular on the university's website
- regularly informing students about counseling and support services in the event of discrimination, harassment and violence,
- Regular information offers and suitable training measures for all members and members of the university, in particular on the following topics General Equal Treatment Act, dealing with conflicts, discrimination-critical, diversity-sensitive and difference-reflective university, duties to act and responsibility of persons with management, training and qualification tasks
- the establishment of appropriate measures to ensure accessibility in studies, teaching, research, training and work to the best of their ability (e.g. accessible IT, i.e. access to websites, files, etc.)
- the consideration of discrimination risks in planning and development projects and infrastructural changes, e.g. in construction measures
- the consideration of discrimination risks in the curriculum and in course development
- the implementation of measures to identify discrimination.

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(2) The university undertakes to continuously develop the procedure and cooperation with regard to advice, complaints and preventative measures and establishes an interdepartmental anti-discrimination council (ADRat) as a structural measure. This council consists of the Vice President for Teaching, the Vice President for Student Affairs, one representative each of the Central Student Advisory Service and the Staff Council, the Central Equal Opportunities Officer, the Representative for Students with (Health) Impairments and Chronic Illnesses, the Representative for Severely Disabled Students, a member of the AStA, a person from the respective student council, four professors, taking into account the departments, including at least one dean. At least half of the members are female.

The members of the AD Council are appointed by the university management in agreement with the respective person, organizational unit or committee. The term of office is four years. Re-appointment is possible. If a person leaves (due to resignation, change of job, graduation or similar), they will be replaced by another person as soon as possible.

The Anti-Discrimination Council meets once a semester. It has the following tasks:

- Supporting the development of and initiating measures to prevent and combat structural and individual discrimination and indirect discrimination at the university
- Evaluation and further development of the anti-discrimination directive and preventive measures
- Development of recommendations for the further professionalization of counselling in cases of discrimination and the guarantee of minimum standards.

It is chaired by the Vice President for Academic Affairs.

(3) A student employment relationship will be permanently established in the Central Student Advisory Service in order to create a low-threshold, outreach advisory setting for students (SEB-StudentischeErstBeratung).

(4) The university appoints confidential counsellors for four years at the various campuses in order to be able to conduct initial confidential orientation talks in cases of sexualized discrimination, harassment and violence.

At least half of the representatives are female.

The confidential counsellors are the first point of contact for those affected. Supervisors can also turn to the confidential counsellors if they need advice.

They develop proposals for the prevention of sexualized discrimination and violence, evaluate the university's measures against sexualized discrimination and violence and report directly to the university management and the Anti-Discrimination Council (ADRat).

The confidants receive comprehensive training at the beginning of their work, undergo regular further training and are in contact with external advice centers. If a case of sexualized discrimination and violence is reported to a person of trust, the persons of trust consult as a group. The Equal Opportunities Officer should be informed. The confidential counsellors meet at least once a semester.

(5) At least one representative per department should be appointed for the other disadvantageous characteristics according to § 1.

§ 6 Right to advice and Advice centers

The university provides counseling services for its members and relatives as well as third parties within the meaning of § 2 who feel affected within the meaning of § 3. They have the right to seek advice and may not suffer any personal, professional or study-related disadvantages as a result of exercising this right to advice. The same applies to persons who support those affected. The following counseling centers are available:

- Confidants in cases of sexualized discrimination, harassment and violence according to § 5 para. 4
- Representatives pursuant to § 5 para. 5
- SEB - Initial Student Advisory Service / Central Student Advisory Service
- Staff Council
- AStA
- Ombudsperson in accordance with § 2 of the directive on the establishment of an ombudsman system
- Representative body for severely disabled persons
- Representative for students with (health) impairments and chronic illnesses
- Psychological Counseling Service for Students (PBS)
- Central and decentralized equal opportunities officers

If necessary, the university also cooperates closely with external advice centers on various dimensions of discrimination.

(1) In order to preserve their anonymity, the person concerned can also make use of the counseling service by involving a third person they trust.

(2) The task of the advice centers is to give those affected by discrimination an opportunity to talk and to inform them about support options and complaints procedures. They also refer to external counseling centers. If the discrimination takes place in the context of a study-related internship, affected students can turn to the university's counseling centers.

The counseling centers clearly communicate the possibilities and limits of their services as well as the counseling process to the person receiving counseling.

(3) The university shall ensure that the person concerned and, if applicable, the person they trust does not suffer any personal, professional or study-related disadvantages as a result of making use of counseling.

(4) The counselors are subject to a duty of confidentiality, from which they can only be released by the person concerned. All steps are taken in agreement with the person concerned and, if applicable, the people who support the person concerned. Possible limits to confidentiality are made transparent during the consultation.

(5) The university enables the full-time and part-time employees of the counseling centers to receive further training in anti-discrimination law and anti-discrimination counseling.

§ Section 7 Right of appeal and Complaints office

(1) Members and affiliates of the university who feel discriminated against by a person covered by the scope of the directive according to § 2 have the right to lodge a complaint.

(2) The university shall ensure that the person concerned and, if applicable, the person supporting the person concerned do not suffer any personal, professional or study-related disadvantages as a result of exercising their right to lodge a complaint.

(3) The university shall set up a complaints office analogous to §13 AGG.

§ Section 8 Complaints procedure

Persons pursuant to § 7 para. 1 have the right to lodge a complaint with the complaints office and thus initiate the formal complaints procedure.

In the event of a complaint, it should be noted that this is a formal procedure. While counseling is subject to confidentiality, the duty of confidentiality may be waived in the complaints procedure. In addition, the complaints procedure can also be continued against the changed will of the person concerned if the university management is obliged to act (e.g. by service regulations).

(1) Upon receipt of the complaint, the complainant will be informed by the complaints office about the further procedure. Furthermore, the complainant shall be informed that there is no entitlement to confidential, anonymous treatment of the complaint. They will be informed of the support available from interest groups and internal advice centers in accordance with § 6 as well as external advice centers. It must be clarified whether certain immediate measures are necessary, for example to protect the person making the complaint.

(2) The complaint can be made in writing or verbally for the record at the complaints office. In the case of an oral statement by the person making the complaint, the employee of the complaints office will record the complaint in writing and prepare a transcript of the conversation. The transcript will be presented to the person making the complaint at the end of the interview for review and subsequent signature.

(3) The complaint should describe the events perceived as disadvantageous and discriminatory.

Witnesses and any evidence should be named, if available. The complaint should state which other persons have already been informed about the incidents and whether measures have already been initiated.

(4) The complaints office compiles the facts of the case, if necessary with the support of the person providing advice who received the complaint, provided that the person concerned has given the advice center their consent. The complaints office may also make use of (external) experts to investigate the facts of the case.

(5) In particular, the complaints office may request the person against whom the complaint is directed to respond to the complaint in writing. On this basis, the complaints office shall promptly, if necessary taking into account the law

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or otherwise specified deadlines, but at the latest within one month of receipt of the complaint, a personal interview with the person against whom the complaint is directed. At the request of the respondent, a person they trust can take part in the meeting.

(6) The complaints office can involve responsible persons from the respective affected areas. This applies in particular if immediate measures are necessary to prevent discrimination. The complaints office may also interview other persons as witnesses. In order to protect the general personal rights of the persons involved, the number of persons involved must be kept as small as possible.

(7) The complaints office examines the facts of the case, informs the president of its findings if necessary and suggests further action.

(8) The complaints office documents all hearings and established facts and informs both parties of the outcome of the discussions. If the complaint is rejected, reasons must be given to the complainant.

(9) The complaints office shall decide on further measures and possible consequences in accordance with § 9 of these guidelines. Further personnel management responsibilities are not affected by this regulation.

(10) The implementation of a complaints procedure in accordance with this directive does not preclude prosecution under employment, service and/or criminal law. The procedural principles of Section 22 AGG must be applied. In the event of a prosecution under employment or service law, the complaints office may suspend the complaints procedure.

(11) If the accusation of discrimination, harassment and/or violence proves to be unjustified, care must be taken to ensure that the wrongly accused person suffers no further disadvantages.

§ 9 Measures and Sanctions

In the event of discrimination within the meaning of this Directive, the appropriate, necessary and reasonable measures must be taken in each individual case to protect the person concerned.

Measures and sanctions depend on the position of the respondent under employment, labor or university law. Provided the legal requirements are met, the following measures and sanctions in particular may be considered:

- Business talk
- Oral or written instruction
- written warning
- Transfer to another workplace within the university
- Termination
- Initiation of disciplinary proceedings
- Withdrawal of a teaching assignment
- Exclusion from a course
- Exclusion from the use of university facilities
- House ban, access ban
- Criminal complaint by the Emden/Leer University of Applied Sciences
- Exmatriculation.

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If an incident of discrimination, harassment and/or violence becomes known, the supervisor must ensure that provisional measures are taken to protect the person concerned. If such an incident is directed against students, the dean responsible must ensure that protective measures are taken.

The university supports, within the scope of its possibilities, the provision of legal and psychosocial counseling to harassed persons upon request.

§ 10 Reporting and Evaluation

The Complaints Office reports anonymously and in compliance with data protection regulations to the Anti-Discrimination Council at least once a year on the fulfillment of its tasks and cases of discrimination.

§ 11 Entry into force

This guideline shall enter into force following the decision of the Executive Board and approval by the Senate on the day after publication in the Official Gazette.