



## IMPORTANT: NON-OFFICIAL VERSION

**NOTE: Only the German version of the Anti-Discrimination Guideline (“Richtlinie zum Schutz vor diskriminierender Belästigung und Benachteiligung an der Hochschule Fulda–University of Applied Sciences”) is legally binding. The English translation is provided for persons who do not understand German.**

### **GUIDELINE ON HARASSMENT AND DISCRIMINATION AT FULDA UNIVERSITY OF APPLIED SCIENCES OF 20 JUNE 2024 (ANTI-DISCRIMINATION GUIDELINE)**

In accordance with § 43 (8) of the Hesse Higher Education Act (*Hessisches Hochschulgesetz*, HessHG) in its currently valid version, the Presidential Board adopted the following Guideline to prevent harassment and discrimination at Fulda University of Applied Sciences on 20 June 2024, following approval by the Senate on 19 June 2024:

#### **PREAMBLE**

In this Guideline, Fulda University of Applied Sciences regulates the handling of discriminatory behaviour in the University context and thereby fulfils its legal obligation arising from § 3 (5) of the HessHG and the German General Act on Equal Treatment (*Allgemeines Gleichbehandlungsgesetz*, AGG). Its aim is to ensure that all members (employees and students) and affiliates (adjunct lecturers, guest students and participants in continuing education programmes, etc.) of Fulda University of Applied Sciences can teach, research, study and work in an atmosphere that is free of discrimination.

All members and affiliates of the University as well as every body and institution at Fulda University of Applied Sciences promote the implementation of the Guideline and support the Presidential Board Office and the Anti-Discrimination Office in their endeavours to prevent discrimination, whereby special responsibility lies with the governing bodies. All members and affiliates of Fulda University of Applied Sciences must contribute to the constructive handling of conflicts at the University through their conduct and actions. The Guideline serves to prevent and eliminate discrimination and to regulate the handling of complaints in this regard.

Fulda University of Applied Sciences also takes measures to prevent discrimination and raise awareness among members of the University community of discrimination in the University context. Specifically, this includes:



- a) making this Guideline known within the University in an appropriate manner and making it permanently available on the University's website;
- b) providing relevant information and training opportunities, on a regular basis, for all University members and affiliates;
- c) providing information and materials on the issue through the Anti-Discrimination Office;
- d) considering possible risks of discrimination in planning and development projects and infrastructural changes, e.g. construction measures and public relations work.

## **§ 1 GOAL**

The goal of the Guideline is to eliminate and prevent discrimination within the University context<sup>1</sup>, especially as defined in Section 1 of the AGG as amended, on the grounds of race, ethnic origin, gender, religion or belief, disability, age or sexual orientation. Exceptions to this apply only when differences in treatment based on the criteria defined in the first sentence are justified by a legitimate reason.

## **§ 2 SCOPE OF APPLICATION**

- (1) With the exception of the provisions laid out in § 4 up to and including § 7 as well as §§ 9 and 10, this Guideline shall not apply in cases where the AGG applies directly.
- (2) In all other cases, this Guideline applies to all members and affiliates of Fulda University of Applied Sciences. This also includes persons not bound to the University under labour or public services law and who are thus not per se subject to the AGG.
- (3) This Guideline also applies in the event of discrimination of third parties or against third parties, such as guests, contractual partners or suppliers, if at least one person belongs to the group of persons referred to in paragraph (2) and discrimination occurred within the University context.
- (4) These regulations apply geographically to the entire campus used by Fulda University of Applied Sciences and all external locations. They also apply during the performance of mobile activities, business trips, at official events organised by Fulda University of Applied Sciences and in digital communication rooms (e.g. video conferences and chats), insofar as these take place within the University context.

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<sup>1</sup> Definition of University context: all matters related to studying and working at the University (physical, contractual, as opposed to private matters).



### § 3 DEFINITION OF TERMS

- (1) Discrimination within the scope of application defined in § 2 on any of the grounds specified in § 1 is prohibited under the terms of this Guideline.
- a) **Direct discrimination** is deemed to have occurred when one person is treated less favourably than another person in a comparable situation on any of the grounds defined in § 1, unless this is objectively justified by a legitimate aim and the means to achieve this aim are appropriate and necessary.
  - b) **Indirect discrimination** is deemed to have occurred when an apparently neutral provision, criterion or practice could put persons at a particular disadvantage compared with other persons on any of the grounds defined in § 1, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means to achieve this aim are appropriate and necessary.
  - c) **Harassment** is deemed to be discrimination when unwanted conduct in connection with any of the grounds specified in § 1 takes place with the purpose or effect of violating someone's dignity and of creating an intimidating, hostile, degrading, humiliating or offensive environment.
  - d) **Sexual or sexualised harassment** is when 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 someone's dignity, in particular where it creates an intimidating, hostile, degrading, humiliating or offensive environment.
- (2) Differences in treatment based on any of the grounds defined in § 1 sentence 1 that are justified on the basis of a special reason in the sense of a fundamental, lawful and justified requirement in the University context do not constitute an act of discrimination.

### § 4 RESPONSIBILITIES

Members and affiliates of the University as well as third parties as defined in § 2, who feel they have been discriminated against by other persons within the meaning of § 2 on any of the grounds specified in § 1, have the right to file a complaint. The same applies to persons who have supported or acted as witnesses of the complainant. They must suffer no disadvantages on account of their availing themselves of this right.



A distinction is made between counselling in an informal complaints procedure, a subsequent voluntary mediation procedure/low-threshold intervention and the formal complaints procedure. Counselling in informal complaints procedures and voluntary mediation/low-threshold intervention is carried out by the Anti-Discrimination Office, if necessary in cooperation with other responsible contact points at Fulda University of Applied Sciences according to the appendix. The formal complaints procedure is handled by the Legal Department.

## **§ 5 ANTI-DISCRIMINATION OFFICE**

### **(1) ORGANISATION**

The University appoints an employee from the Anti-Discrimination Office as a contact person for anti-discrimination according to § 6 (2) of the HessHG. This person has the rights and obligations listed in the current version of the HessHG.

### **(2) RESPONSIBILITIES**

The Anti-Discrimination Office is the primary point of contact for informal complaints from all University members and affiliates affected by discrimination or harassment as defined in § 3 a) to d) on any of the grounds referred in § 1. It also provides advice on constructive approaches to handling discrimination within the University context.

Specifically, the Anti-Discrimination Office has the following responsibilities:

- a) to provide University members and affiliates with confidential counselling services and support in the event of discrimination or harassment within the meaning of § 3 a) to d) on any of the grounds referred to in § 1, to inform them of their rights, to offer or point out protection measures and possible action and to help them decide whether to initiate a formal complaints procedure;
- b) to investigate and establish the facts and circumstances of the case, if necessary with the consent of the persons affected and in cooperation with the contact points at Fulda University of Applied Sciences as specified in the appendix and other responsible bodies at the University (supervisors, Dean's Office, Presidential Board);
- c) to seek an amicable resolution between the parties involved in the conflict, with the consent of those affected by discrimination, by conducting a mediation procedure or low-threshold interventions as defined in § 6, provided that the necessary conditions are met;
- d) to provide counselling services, if necessary through other agencies;



- e) to document all complaints procedures according to this Guideline and keep anonymous statistics;
- f) to help Fulda University of Applied Sciences develop measures to prevent discrimination and raise awareness among members of the University community of discrimination within the University context.

### (3) CONFIDENTIAL COUNSELLING

University members and affiliates as well as third parties as defined in § 2, who feel they have been discriminated against by other persons within the meaning of § 2 on any of the grounds referred to in § 1, may make use of the counselling services offered by the Anti-Discrimination Office. The same applies to supporters and witnesses of the person concerned. Records of the counselling session in anonymous form must be kept.

Staff of the Anti-Discrimination Office are bound by confidentiality and may not disclose personal data obtained during counselling sessions without the consent of the individuals concerned, unless legally permitted. The University must ensure that no individual suffers unlawful disadvantage as a result of their availing themselves of their right to lodge a complaint. All actions shall be taken in agreement with the individuals concerned and their authorised representatives.

### (4) COLLABORATION/COOPERATION

In informal complaints procedures, the Anti-Discrimination Office cooperates in a confidential and collaborative manner with the contact points at Fulda University specified in the appendix, also collaborating with existing interest groups and representatives, such as the Representative for Women's Affairs and Gender Equality, the Staff Council, the Representative of Persons with Disabilities, the Representative of Professional Integration Management (*Betriebliches Eingliederungsmanagement*, BEM), the Representative of Students with Disabilities/chronic illnesses or the General Student Committee (AstA). The Anti-Discrimination Office meets with the said interest groups and representatives once a year. This exchange serves as a basis for the ongoing development of procedures and collaboration.



## **§ 6 MEDIATION PROCEDURE/LOW-THRESHOLD INTERVENTIONS**

- (1) University members and affiliates as well as third parties as defined in § 2, who feel they have been discriminated against by another person within the meaning of § 2 on any of the grounds referred to in § 1, may make use of a mediation procedure/low-threshold interventions (e.g. through a moderated discussion, mediation or similar, if necessary through the Conflict Prevention and Team Development unit or external parties) to seek amicable resolution of the conflict, which is conducted by the Anti-Discrimination Office.
- (2) To carry out this procedure, it is necessary that:
  - a) mediation procedures/low-threshold interventions are deemed appropriate for the specific case;
  - b) mediation procedures/low-threshold interventions are not precluded by the severity of the allegation;
  - c) mediation procedures/low-threshold interventions are clearly authorised by the persons named in paragraph 1 and
  - d) the persons involved are willing and mutually agree to make use of the mediation procedure/low-threshold interventions.
- (3) The Anti-Discrimination Office contacts the person(s) perceived as having engaged in discriminatory conduct. With the consent of both parties, additional individuals, such as a trusted confidant, may also participate in the meeting, alongside the complainant and the person against whom the complaint is directed.
- (4) All information, personal data and the subject of the discussion are treated with strict confidentiality. No further actions may be taken by the counselling agencies following the mediation procedure/low-threshold intervention without the consent of the parties involved.
- (5) The outcome of the mediation procedure/low-threshold intervention does not establish any legal entitlement (under labour law), such as for improved examination results, (re-)appointment, employment, vocational training relationship or career advancement. Any claims must be pursued separately.
- (6) The mediation procedure/low-threshold intervention does not replace a formal complaints procedure. Affected individuals retain the right to file a formal complaint if, for example, a mediation/low-threshold intervention is not deemed meaningful or if the outcome is perceived as unsatisfactory.



## **§ 7 COMPLAINTS PROCEDURE**

### **(1) RIGHT TO A FORMAL COMPLAINT**

All members and affiliates of Fulda University who have experienced discrimination or harassment within the meaning of § 3 (1) a) to d) on any of the grounds referred to in § 1 have the right to file a formal complaint after completing the generally required informal complaints procedure. They must suffer no disadvantages or discrimination on account of their availing themselves of this right.

### **(2) COMPETENT COMPLAINTS OFFICE**

The legal department is responsible for handling formal complaints. It assumes the role of complaints office or competent authority as defined in Section 13 of the AGG.

### **(3) FORMAL PROCEDURE**

- a) The formal complaint should be submitted in written form to the designated complaints office according to § 7 (2) detailing the incidents perceived as discriminatory. The complaint should include the names of witnesses and present any available evidence. The formal complaint should also list any other individuals who have already been informed about the incidents and specify any measures that have been taken. The Anti-Discrimination Office will assist the complainant. The Anti-Discrimination Office will provide the complaints office with a written account of the facts and circumstances of the case to date and, with the consent of the complainant, all documentation produced during the informal procedure.
- b) After receipt of the formal complaint, the complaints office will promptly inform the complainant of their rights and obligations as well as the subsequent steps in the formal complaints procedure. The complaints office will also inform the complainant about their continued right to consult a trusted confidant, about support measures through interest groups and other internal and external counselling services.
- c) As part of the review of the formal complaint, the complaints office may consult relevant individuals (e.g. immediate superiors) from the respective areas concerned as well as contact points at Fulda University as listed in the appendix and other responsible University bodies (Dean's Office, Presidential Board). This is especially relevant if, due to the nature or severity of the allegations, immediate actions are necessary to protect the person concerned (e.g. release from work) in accordance with § 8 before a final resolution of the case is reached.



- d) The complaints office instructs the person against whom the complaint is directed to respond to the complaint in writing and/or requests a personal interview. It interviews witnesses and reviews evidence, if such could be provided. The parties involved are entitled to call in representatives of interest groups or a trusted confidant to the interviews and hearings.
- e) The outcome of oral hearings and interviews is documented in writing.
- f) After the parties involved have made their statements, the possibility of filing an informal complaint through a mediation procedure/low-threshold intervention, as defined in § 6, must be considered (if necessary, again).
- g) The complaints office carries out a legal assessment of the formal complaint, reports the outcome to the President and recommends subsequent steps. It informs both parties of the outcome of the interviews and investigations.
- h) The complaints office forwards the documentation of the formal complaint to the Anti-Discrimination Office using the form provided by the German Anti-Discrimination Agency.

## **§ 8 MEASURES AND SANCTIONS**

- (1) In the event of discrimination and harassment within the meaning of § 3 a) to d) on any of the grounds referred to in § 1, measures appropriate to the case at hand shall be taken, to a necessary and reasonable extent, for the protection of the person affected.
- (2) Measures and sanctions to be taken may depend on the position of the respondent, in terms of public service law, civil service law or higher education law. The staff council must be consulted regarding measures affecting employees who are subject to collective agreements or civil servants as defined by the Hesse Staff Representation Act (*Hessisches Personalvertretungsgesetz, HPVG*).
- (3) The President decides on the taking of measures and sanctions. The following measures, in particular, may be considered:
  - a) a verbal or written admonition
  - b) ban from using University facilities
  - c) exclusion from a course
  - d) ban from entering University premises
  - e) criminal charges by the University
  - f) expulsion from the University pursuant to § 65 (3) of the HessHG



- g) withdrawal of teaching assignment
- h) disciplinary interview
- i) written warning
- j) transfer to another position within the University
- k) termination of contract
- l) initiation of disciplinary proceedings
- m) termination of contractual agreements.

## **§ 9 PROPOSED IMPROVEMENTS**

All members and affiliates of Fulda University of Applied Sciences are encouraged to submit written proposals aimed at preventing conflicts to the Presidential Board or to suggest structural, organisational or other improvements to protect against discrimination. The Presidential Board will have each proposal reviewed by the relevant departments or offices and, if necessary, adopt appropriate measures. The person submitting the proposal will always be informed whether measures will be taken, and if so what those measures will be.

## **§ 10 REPORTING SYSTEM**

The Anti-Discrimination Office reports to the Presidential Board and Senate once a year with a statistical assessment of all informal and formal complaints procedures carried out in the period under review.

## **§ 11 COMING INTO FORCE**

This Guideline is effective from the day following its publication, replacing the guideline of 18 May 2017.



## APPENDIX

### CONTACT POINTS AND COUNSELLING CENTRES AT FULDA UNIVERSITY OF APPLIED SCIENCES

June 2024

#### ANTI-DISCRIMINATION OFFICE

Provides advice on discrimination and (sexualised) harassment, handles informal complaints and mediation procedures/low-threshold interventions for the amicable resolution of conflicts (for responsibilities see § 5 (2)).

<https://www.hs-fulda.de/en/unsere-hochschule/a-z-alle-institutionen/chancengerechtigkeit-und-vielfalt/antidiskriminierungsstelle>

#### LEGAL DEPARTMENT

Complaints office for formal complaints procedures (see § 7 (2)).

<https://www.hs-fulda.de/en/our-university/a-z-all-institutions/legal-department>

#### REPRESENTATIVE FOR WOMEN'S AFFAIRS AND GENDER EQUALITY

The Representatives for Women's Affairs and Gender Equality participate in professorial appointment and recruitment procedures, provide counsel to the University's committees and institutions and initiate gender equality and women's advancement schemes. They also offer guidance to students, employees, professors and applicants.

<https://www.hs-fulda.de/en/unsere-hochschule/a-z-alle-institutionen/chancengerechtigkeit-und-vielfalt/womens-and-equal-opportunity-officer>

#### REPRESENTATIVE OF PERSONS WITH DISABILITIES

The Representative of Persons with Disabilities supports the integration of disabled and severely disabled people, and those with equivalent status, represents their interests and offers advice and assistance.

<https://www.hs-fulda.de/en/our-university/committees/representative-for-severely-disabled-persons>

#### REPRESENTATIVE OF PROFESSIONAL INTEGRATION MANAGEMENT (BEM)

The representative of professional integration management supports the process of workplace integration, which is designed to help employees overcome incapacity to work and facilitate their return to the workplace.

[Link to the intranet page](#)

#### STAFF COUNCIL

The Staff Council provides information and advice on matters and problems relating to employment relationships.

<https://www.hs-fulda.de/en/our-university/committees/staff-council>



## HUMAN RESOURCES DEPARTMENT

The Human Resources Department office oversees and supports employees throughout their employment, from recruitment to termination of the employment relationship, providing assistance with a wide range of issues.

<https://www.hs-fulda.de/en/our-university/a-z-all-institutions/human-resources-management>

## CONTACT PERSON FOR RECONCILIATION OF CAREER AND FAMILY LIFE IN THE HUMAN RESOURCES MANAGEMENT DEPARTMENT

This contact person advises employees on labour law matters related to balancing family and career commitments, such as maternity leave, parental leave or caring for relatives.

<https://www.hs-fulda.de/en/our-university/a-z-all-institutions/human-resources-management>

## STAFF UNIT FOR CONFLICT PREVENTION AND TEAM DEVELOPMENT

This staff unit advises employees in the event of conflicts and bullying, regardless of the type of discrimination. The internal conflict resolution centre can be consulted as part of a conflict-clearing or mediation process, helping to de-escalate situations and potentially avoid the need for formal or legal proceedings.

<https://www.hs-fulda.de/en/our-university/a-z-all-institutions/conflict-prevention-and-team-development>

## INTERNATIONAL OFFICE

International Office offers international students and researchers support and a range of services and information about stays abroad.

<https://www.hs-fulda.de/en/international/international-office/contact>

## OFFICE FOR INTERCULTURALITY AND CULTURE REFLEXIVITY

The Office for Interculturality and Culture Reflexivity offers initial advice and suggests referrals for all University members facing intercultural challenges and conflicts.

<https://www.hs-fulda.de/en/unsere-hochschule/a-z-alle-institutionen/chancengerechtigkeit-und-vielfalt/interkulturalitaet>

## ADMINISTRATIVE UNIT OF STUDY AND EXAMINATION LAW (SPR)

This unit advises the Presidential Board, administrative staff, the central institutions and academic departments on all legal matters relating to study programmes and examinations.

<https://www.hs-fulda.de/en/our-university/a-z-all-institutions/study-and-examination-law>



## REPRESENTATIVE OF STUDENTS WITH DISABILITIES/CHRONIC ILLNESSES

Advice and information about studying with a disability, chronic illness and accommodations for disadvantages.

<https://www.hs-fulda.de/en/orient/look-around/get-advice/consulting-services/studying-with-a-disability>

## PSYCHOSOCIAL ADVISORY SERVICES FROM THE CENTRAL STUDENT ADVISORY SERVICE

The psychosocial advisory service offers students independent, confidential and free advice and support, helping them manage conflicts and challenges in both their academic and private life.

<https://www.hs-fulda.de/en/orient/look-around/get-advice/consulting-services/psychosocial-counseling-for-students>

## FAMILY OFFICE: STUDYING WITH A CHILD /RELATIVES IN NEED OF CARE

Confidential and free counselling, information and mediation for students and prospective students with care-giving responsibilities, as well as pregnant women.

<https://www.hs-fulda.de/en/our-university/profile/family/study-with-family>

Other contact persons (involved in projects or student representation groups) can be contacted for support based on their expertise and focus areas in anti-discrimination.

