



Guidelines against Discrimination

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Preamble

TU Darmstadt promotes equal opportunity in the collaboration between its members and associates at every functional level in service, study, teaching and research. It values a trusting cooperation and respectful and appreciative interaction.

It is committed to ensuring that there shall be no discrimination within the University, in particular for reasons of racial attribution or due to ethnic or national backgrounds, gender, religion or belief, disability, age, sexual identity, or outward appearance.

These guidelines shall apply to the prohibition of discrimination as found in the *German Allgemeines Gleichbehandlungsgesetz* (AGG – General Act on Equal Treatment) to and for the benefit of all members and associates of TU Darmstadt who are not bound to the University by an employment or service contract, and who, in particular, are therefore not covered by the AGG.

These guidelines establish the right to appeal for the concerned persons. They obligate TU Darmstadt to undertake preventive, structural, and compensatory measures and they enable the issuance of sanctions.

Section One: Guiding Principles and Definitions

§ 1 Objectives

These guidelines serve to protect against discrimination at TU Darmstadt.

The aim of these guidelines is to prevent or eliminate discrimination, in particular for reasons of racial attribution or because of ethnic, national, or social background, gender, religion or belief, disability or health restrictions, age or personal status, sexual identity or outward appearance.

§ 2 Scope of Application

(1) These guidelines shall apply for all members and associates of TU Darmstadt within the meaning of Sect. 32 of the *Hessisches Hochschulgesetz* (HHG – Hessian Higher Education Act)¹.

(2) The guidelines shall also apply for acts of discrimination by and/or against third-parties on the premises or at events of TU Darmstadt or when commissioned or being commissioned by TU Darmstadt.

(3) For cases of sexualised discrimination and assault, the *Richtlinie der TU Darmstadt gegen sexualisierte Diskriminierung und Übergriffe* (guidelines against sexualised discrimination and assault, German only) provides more specific information on this subject.

§ 3 Definitions

(1) The definitions and concepts pursuant Sec. 3 AGG, as amended from time to time, apply including the judicial decisions based thereupon:

1. Direct discrimination exists when a person, due to any of the reasons referred to in § 1, is treated less favourably than another person in a comparable situation is, has been, or would have been treated. Direct discrimination on grounds of gender also exists in the event of the less favourable treatment of a woman on account of pregnancy or maternity.
2. Indirect discrimination exists when an apparently neutral provision, criterion or procedure might present a particular disadvantage for a person compared to another person due to any of the reasons referred to in § 1, unless the provision, criterion or procedure are objectively justified by a legitimate goal and the means of achieving that goal is appropriate and necessary.
3. Harassment shall be deemed discrimination when undesired behavioural practises which, in connection with any of the reasons referred to in § 1, are meant to or have the effect of violating the dignity of the person concerned and create an environment characterised as intimidating, hostile, degrading, humiliating or offensive.

¹ § 32 HHG (1) *Members of the university are the professors, the students, the scientific, medical, administrative and technical staff and the President.*

(6) *Associates of the university are all those whose activities are as guests, part-time or volunteer personnel, guest students, participants in continuing professional development events hosted by the university as well as those who are admitted to a doctorate or postdoctoral lecturing qualification, and also those professors who have been released from their position and who are retired, provided that they are not members of the university.*

4. Sexual harassment shall be deemed to be discrimination when unwanted behaviour of a sexual nature, also including unwanted sexual acts and demands for these, physical contact of a sexual nature, remarks with sexual contents and unwanted showing or exposure to sexually discriminating images, aims at or causes a violation of the dignity of the person concerned, in particular when an environment characterised by intimidation, hostility, degradation, humiliation, or offensiveness is created.

5. Instructions to discriminate against a person for any reason referred to in § 1 shall be deemed discrimination. Such an instruction shall exist in particular when someone directs a person to behave in such a way that a person is or could be discriminated against for any of the reasons referred to in § 1.

(2) Harassing behaviour can be either of a verbal or a non-verbal nature. This can include, for example, defamation, insults or derogatory statements, hostility, threats and physical assaults which are connected to any of the reasons referred to in § 1.

(3) Behaviour covered by the concepts harassment and sexual harassment include above all (sexual) acts and behaviour which can be punished according to criminal law.

(4) Behaviour which the concerned person judges to be mobbing or stalking can also represent harassment or sexual harassment within the meaning of § 1.

§ 4 Prohibition of Discrimination

(1) Persons within the meaning of § 2 must not be discriminated against for one or more grounds referred to in § 1; this shall also apply when the person committing the act of discrimination only assumes the existence of any of the reasons referred to in § 1.

(2) Provisions at TU Darmstadt that infringe on the prohibition of discrimination in paragraph 1 shall be deemed ineffective.

(3) Discrimination pursuant to paragraph 1, which is committed by members and associates of TU Darmstadt, may constitute a violation of contract, employment, civil service, or university legal obligations.

(4) A difference of treatment is permissible when through appropriate and reasonable measures the existing disadvantage or discrimination on grounds referred to in § 1 is intended to be prevented or equalised.

Section Two: Prevention

§ 5 The University's Obligations: Prevention

(1) TU Darmstadt is obligated to adopt measures necessary for the protection against discrimination based on any grounds referred to in § 1. To this end, it is taking preventive measures.

(2) In particular, the development of a strategy for the protection against discrimination is one of these. The intended aims of this strategy are:

- The effective implementation of anti-discrimination laws and the creation of conditions that ensure the exercising of the rights of affected persons and promote empowerment of those groups of persons who are discriminated against. Among these measures are such meant to increase the level of self-determination in people's lives;
- The identification of discrimination – in particular, structural or indirect discrimination – as well as barriers which obstruct the exercising of equal rights;
- Further development of compensatory measures in order to achieve equal opportunity and gender equality as well as to eliminate existing discrimination or the results of past discrimination.

(3) Such measures could, for example, be:

- Making these guidelines known to all members and associates of TU Darmstadt and their permanent publication on the university homepage;
- Providing information on a regular basis for all associates and members of TU Darmstadt;
- Training opportunities, in particular, to raise awareness among all members and associates with regard to discrimination;
- Considering the risks of discrimination when planning and developing projects and changes in infrastructure, e.g. building projects;
- Considering the risks of discrimination in selection procedures, in curriculum, when developing degree programmes and the framework conditions for courses, such as course time periods, the behaviour of the teaching staff and discrimination-sensitive language.
- Polls and statistical surveys.

Section Three: Complaint Procedure

§ 6 Right of Appeal

(1) Affected persons are encouraged not to accept discrimination. The persons referred to in § 2, who feel that they have been discriminated against either through another person, or in situations within

the meaning of § 2, on any of the grounds referred to in § 1, have the right to lodge complaints with the competent complaint office pursuant to § 9.

(2) TU Darmstadt will do everything in its power to prevent any personal or professional discrimination against those who assert their right of appeal. The same applies for those who have supported them or acted as witnesses for the person concerned.

§ 7 Principles of procedure

(1) TU Darmstadt provides competent authorities as contact points and complaint offices for its members and associates as well as for third parties pursuant to § 2, who feel that they have been discriminated against within the meaning of § 3. All of the entrusted contact persons and authorities have the responsibility, in particular, to give the concerned discriminated person the chance for a confidential meeting, to advise them and inform them about further support options and other possible steps of action.

(2) Our aim is to provide support to the affected person in the protection of their interests as well as in the submission of a complaint according to § 9 and, if desired, also by accompanying the complaint procedure.

(3) TU Darmstadt enables all of those employees who are available as contact persons to take part in trainings and professional development courses on anti-discrimination law and counselling with respect to anti-discrimination.

§ 8 Counselling Centre

(1) The Social Counselling and Conflict Management Service is available to the affected employees as a low-threshold point of counselling for getting advice and help. Other counselling offices for these persons are the superiors, Directorate VII Human Resources and Legal Affairs, the Gender Equality Officer, the Staff Council and the Representative for the Severely Disabled.

(2) As a low-threshold point of counselling, the Complaint and Improvement Management office is available for TU Darmstadt students, those interested in studying, applicants, and former university students as well as for pupils. Further points of contact for affected persons within TU Darmstadt are the Gender Equality Officer, the AStA (Allgemeiner Studierendenausschuss – executive committee of the students council), the Ombudsperson for International Students (if necessary), the Central Student Advisory Service, the Service Point for Part-time Studies, the Commissioners for Disability Issues, *Projekt Handicap* or external Social Counselling and Psychological Counselling through Studierendenwerk Darmstadt (association for student affairs).

(3) The Social Counselling & Conflict Management, Complaint and Improvement Management and the Social Counselling and Psychological Counselling offered by Studierendenwerk Darmstadt operate according to the following principles: Confidentiality, independence, professionalism, and voluntary participation. They support the affected person in protecting their interests and accompany them, if desired, also in the process of lodging a complaint according to § 9. Activities will only be initiated, and information will only be shared in consultation with the affected person. In order to protect their anonymity, affected persons may use the counselling services by involving third parties that they trust or through the use of a pseudonym.

(4) In the event that counselling at the Complaint and Improvement Management leads to a complaint, this will be documented and sent to the office referred to in § 9 (3) s.2 for further processing.

§ 9 Complaint Procedure

(1) Complaints about employees and members of TU Darmstadt and persons and institutions which are commissioned by TU Darmstadt can be submitted to the AGG Complaint Office in Directorate VII, Human Resources and Legal Affairs. Complaints about students can be submitted to Complaint and Improvement Management in Directorate II, Studies and Teaching, Legal Affairs in Studies and Teaching.

(2) The complaint shall be submitted in writing or orally for recording. In the case of an oral declaration, the complaint and the contents of the meeting will be documented in writing in the form of minutes.

This will then be presented to the complainant for their information, review and approval.

(3) If the complaint concerns employees or associates of TU Darmstadt or persons or institutions commissioned by TU Darmstadt, it shall be handled by the AGG Complaints Office in Directorate VII, Human Resources and Legal Affairs. If the complaint concerns students, the complaint shall be handled by Directorate II, Studies and Teaching, Legal Affairs in Studies and Teaching.

(4) The complainant shall be informed of their rights and about further procedure. They shall be informed about support measures available through advocacy groups and counselling offices pursuant to § 8.

(5) The competent office shall investigate the matter and verify whether a violation against § 4 (1) exists. The accused person shall be heard within one month if possible. At the request of the accused person, a person of their trust may participate in the hearing.

(6) The competent office may involve persons in charge of the department concerned. This applies in particular when immediate measures are necessary to prevent discrimination.

(7) The complainant may retract their complaint at any time.

(8) The competent office shall document all hearings and the ascertained facts. All information shall be handled according to the data protection regulations and, if appropriate, deleted. The President shall decide on further measures and possible consequences pursuant to § 10.

(9) After conclusion of the proceedings, the persons concerned shall be informed about the results.

(10) The complaint office employees shall be under the supervision of the Executive Board.

§ 10 Measures and Sanctions

(1) In individual cases, in the event of discrimination according to § 3, appropriate, necessary and reasonable measures shall be taken for the protection of the affected person.

(2) The measures and sanctions depend on the position of the accused person in terms of service, employment or university law.

(3) The following measures in particular may be considered in regards to students:

- Verbal or written admonition
- Expulsion from a course
- Exclusion from the use of university facilities
- Ban on entering the premises
- De-registration
- Criminal charges by TU Darmstadt

(4) The following measures in particular may be considered in regards to employees and staff of TU Darmstadt:

- Conducting a formal official interview
- Verbal or written admonition
- Written warning
- Revocation of a teaching appointment
- Exclusion from the use of university facilities
- Transfer or reassignment to another job within the university
- Ban on entering the premises
- Ordinary or exceptional dismissal
- Initiation of disciplinary proceedings (for civil servants) up to discharge from civil service status
- Criminal charges by TU Darmstadt

(5) The following measures in particular may be considered in regards to other persons within the meaning of § 2 (2):

- Expulsion from a course
- Exclusion from the use of university facilities
- Ban on entering the premises
- Criminal charges by TU Darmstadt

(6) Affected persons may also pursue their rights and interests under civil and criminal law. Measures that can be taken, for example, are injunctions against contact and proximity, damages/compensation for pain and suffering, monetary fines and imprisonment.

§ 11 Reporting system and evaluation

The complaint office reports to the Executive Board on a yearly basis regarding the fulfilling of its responsibilities and concrete cases of discrimination. The complaint office, counselling office and advocacy groups exchange information at least once a year. This exchange is intended to be the point of reference for the continuous development of the strategy for the prevention of discrimination, complaint procedures, and cooperation regarding counselling, complaint processing and prevention measures. The exchange of information regarding discrimination cases beyond those involved in the case shall always be in the anonymous form.

§ 12 Effective Date

These guidelines shall be effective from the day of their publication in the *Satzungsbeilage* (appendix to the statutes) of TU Darmstadt.